

Exhibit 5

New Jersey BPU *Verizon Franchise Order*
and *Verizon Franchise Renewal Order*



STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
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OFFICE OF CABLE
TELEVISION

IN THE MATTER OF THE APPLICATION BY VERIZON)
NEW JERSEY, INC. FOR A SYSTEMWIDE CABLE)
TELEVISION FRANCHISE) DOCKET NO. CE06110768
)

ORDER

(SERVICE LIST ATTACHED)

BY THE BOARD:

This matter has been opened to the New Jersey Board of Public Utilities ("the Board") by the filing of an application for a systemwide cable television franchise by Verizon New Jersey, Inc. ("VNJ", "Verizon" or "Petitioner"), pursuant to P.L. 2006, c. 83 ("Systemwide Cable Television Franchise Act" or "Act"), which modified the existing Cable Television Act ("CATV Act"), N.J.S.A. 48:5A-1 et seq., to allow for competitive systemwide franchises for certain providers of cable television service. Based upon review of the application and the associated record, and as will be discussed in significant detail below, the Board grants the application with appropriate conditions.

BACKGROUND

The CATV Act, prior to the changes introduced by P.L. 2006, c. 83, vested the authority to grant a franchise for cable television in a joint process between the municipality and the Board. A proposed cable television operator was required to apply to an individual municipality for municipal consent for permission to use the public rights-of-way, N.J.S.A. 48:5A-22, and, once this was obtained, the applicant then sought a certificate of approval from the Board, N.J.S.A. 48:5A-23. Within this framework, the major parties involved in the negotiation of the terms of the franchise were the cable television operator and the municipality; the Board's review centered on the statutory issues of ensuring that the cable television operator had the "financial and technical capacity and the legal, character and other qualifications to construct, maintain and operate the necessary installations, lines and equipment and to provide the service proposed in a safe, adequate and proper manner." N.J.S.A. 48:5A-28(c). Because the negotiation process occurred on a municipality basis, the contents of each franchise could and did differ significantly between municipalities and between cable operators – in New Jersey, under the prior CATV Act, no such thing as a "generic" cable television franchise existed.

P.L. 2006, c. 83, however, has changed this basic premise. Under the systemwide franchise regime, a cable television applicant who otherwise has a right to use public rights-of-way or who proposes to place plant and equipment in the public right-of-way at the time of issuance of a systemwide cable television franchise, may apply directly to the Board for a franchise, and need not negotiate with the individual municipalities who will be served by the cable television operator acting under this systemwide franchise. This break from the traditional franchising process is designed to streamline the ability of new applicants and competitive services to enter into the market, N.J.S.A. 48:5A-2, and thus removes the need for individualized municipal consent-based franchises. Instead, P.L. 2006, c. 83 imposes requirements upon the applicant, including commitments as to line extension policies; public, educational and governmental (“PEG”) access channels; interconnections; free cable and Internet service to public schools and municipal buildings; training and equipment for access users; return feeds; and compliance with customer protection regulations. N.J.S.A. 48:5A-28. Additionally, the Systemwide Cable Television Franchise Act provides for an increase in franchise fees from 2% of revenues on the basic service tier to 3.5% of gross revenues well as an amount not to exceed 0.5% of gross revenues for a CATV Universal Access Fund. N.J.S.A. 48:5A-30.

P.L. 2006, c. 83 was signed into law on August 4, 2006 by Governor Jon Corzine, who simultaneously issued Executive Order 25, directing the Board and the Public Advocate to promulgate regulations to ensure the availability of service by a systemwide applicant in keeping with the anti-redlining elements of the statute. Included in the legislation was a direction to the Board to take the steps necessary to begin the process of implementing the legislation, as well as a notification that the Systemwide Cable Television Franchise Act would not take effect for 90 days, or until November 2, 2006. Pending the effective date of the legislation, the Board and the Office of Cable Television (“OCTV”) took steps to prepare for the likelihood of applications, including numerous meetings with stakeholders such as VNJ, the cable industry in both its individual and statewide organizational formats, and the Department of the Public Advocate and its Division of Rate Counsel. These meetings, and the discussions involved, resulted in the format of the Systemwide Franchise Application promulgated by the OCTV on October 23, 2006, as well as the proposal of new rules for the process associated with the application and operation of a systemwide franchise in the State. The proposed rules have been published in the New Jersey Register, and a public hearing on the rules is scheduled for the first week of January. The rules have not, however, been formally adopted.

APPLICATION

On November 2, 2006, Verizon filed its application for a systemwide franchise with the Board, in both a proprietary and public version. The application was filed on the form promulgated by the OCTV, and included 20 appendices. As set forth in the Systemwide Cable Television Franchise Act, the Board was required to conduct its full review within 45 days, providing a deadline of December 18, 2006 for Board action. The application set forth 316 municipalities located in VNJ’s service area (or “footprint”) and sought inclusion of all these municipalities in a single systemwide franchise.¹ The application notes VNJ’s intention to operate a cable television video distribution system over its existing and upgraded fiber optic telecommunications network. VNJ will institute a fiber-to-the-premises (“FTTP Network”) fiber optic service (“FiOS”) that will provide cable television service in addition to telecommunications and Internet service throughout a significant portion of the VNJ footprint. This network will be served by two super headends located in Florida and Illinois that will serve as points of national content aggregation. From there, the content will be transmitted to one of two local video hub offices (“VHOs”) serving

¹ The list of the 316 municipalities is included as Appendix “A” of this Order.

the New York Designated Market Area (“DMA”) in northern New Jersey and the Philadelphia DMA in southern New Jersey. These VHOs will add local programming to the national content and then transmit the signals to video serving offices (“VSOs”), generally located in local wire centers or central offices. VNJ has indicated that it believes it has sufficient back-up facilities to provide for uninterrupted service under most circumstances, and to ensure that customers are able to receive local and national news in the event of an emergency. The video service will provide both an analog and a digital signal, and will allow for direct connection to cable-ready televisions for the analog signal or will require set-top boxes or other hardware for the digital signal. Based upon the description provide by VNJ in its application, it is expected that the cable television service provided by VNJ will be, at minimum, analogous to current cable offerings from the incumbent cable television companies operating throughout the State.

The Systemwide Cable Television Franchise Act requires an applicant who, “on the date of the issuance of the system-wide franchise,” provides more than 40 percent of the local exchange telephone service market in the State to serve certain municipalities. N.J.S.A. 48:5A-25.2(a). VNJ qualifies under this element of the Act and thus triggers the mandatory service requirements set forth by the Legislature. In its application, VNJ lists the municipalities it is required to serve under this provision, and those municipalities are indicated on the attached municipality listing. VNJ has indicated it will comply with the requirement to begin providing cable television service on a commercial basis in these municipalities within three years of the issuance of this systemwide franchise, in keeping with N.J.S.A. 48:5A-25.2(a). As for the other municipalities included in this application, VNJ has indicated its intention to provide service on its own timeframe.

In terms of compliance with the requirements of local service offices, under N.J.S.A. 48:5A-26(d), VNJ’s application notes its intention to open a number of customer service facilities in retail establishments. Specifically, VNJ has indicated its intention to open customer service centers in reasonable proximity to its customers, and has set forth minimum basics on hours, staffing, availability of service, and access to mass transit and / or parking facilities, as well as a commitment to open additional facilities if and when the increase in customers makes it necessary. VNJ concedes that many of these facilities may not be open and available on the date of issuance of this franchise, although it has committed to having 6 available within 90 days of the issuance of this franchise.

In response to the question of outstanding unsatisfied judgments or decrees against the company, VNJ notes that there are “no material judgments.”

As to the requirements set forth for the provision of PEG access channels, VNJ has committed in its application to providing, on the basic tier, two PEG access channels for use by each municipality where cable television service is being provided. VNJ further commits to providing additional PEG access channels upon request and where the municipality can demonstrate need for the additional channel or channels. Also in keeping with the new legislation, VNJ has committed to interconnecting with the incumbent cable television companies in each municipality to be served for the purposes of cablecasting live PEG access programming. VNJ’s application notes, however, that interconnection requires agreement by the existing cable television company and that such agreement has not yet been reached. Furthermore, VNJ has set forth a proposal in its application for the provision of equipment and training for the use of the municipalities and/or its residents to produce PEG access content. VNJ intends to enter into an agreement with NJEDGE, a non-profit consortium of 52 New Jersey higher education institutions to have equipment and facilities available throughout the State. Initially, VNJ intends to have Mercer County Community College, Bergen Community College, and Brookdale

Community College as PEG access equipment facilities, and will activate additional facilities as necessary. In the event the agreement with NJEDge falls through, VNJ has further committed to satisfying the requirements of N.J.S.A. 48:5A-28(l) through other means.

In order to comply with the requirements of N.J.S.A. 48:5A-28(i), (j), (k), and (m), VNJ has committed to supplying free basic cable television service, free Internet service and a free return feed, upon written request, in all municipalities served by VNJ's cable television service. This service will be provided to any fire station, public school, police station, public library, or other building used for municipal purposes and will include basic cable and entry level Verizon FiOS Internet access service, and will be furnished upon written request of the municipality. Deployment to municipal buildings will be contemporaneous with the roll-out of service in the neighborhood where the municipal building is located. Likewise, VNJ asserts that requests for return lines must be in writing and will be provided, but the municipality will be responsible for the content and equipment needed to use the return line.

As noted in both the legislation and Executive Order 25, the issue of access and service to multiple dwelling units ("MDUs") has a special significance. VNJ has committed to providing service to MDUs on a non-discriminatory basis, with specific configurations dependent upon the nature of the MDU. VNJ has indicated, in its application, that it is currently in the process of successfully deploying FTTP in MDUs and that it will continue to do so in those facilities that are amenable. In those facilities where typical FTTP can not be used, VNJ has committed to determine technical solutions that will allow for service, and has developed an internal process for review and solution of MDU issues. In the event VNJ can not find a solution to an MDU issue, VNJ has committed to notifying the Department of the Public Advocate, its Division of Rate Counsel and the Board with the appropriate information.

On questions in the application centering on the issue of the construction of the network, VNJ has asserted that it is building a telecommunications network under N.J.S.A. 48:17-1 et seq., rather than constructing a cable network under N.J.S.A. 48:5A-1 et seq., and thus the construction falls outside the scope of the Board's cable television oversight. On the issue of providing maps of the network, VNJ reasserts that the maps are not required based upon Title II of the federal Telecommunications Act, 47 U.S.C.A. § 151 et seq. as well as under N.J.S.A. 48:17-1 et seq., but that VNJ will nevertheless provide the maps for each municipality to the OCTV no later than 48 hours prior to scheduled activation of the municipality. These maps have been claimed confidential and proprietary by VNJ and have been filed subject to that assertion and as an exception to the New Jersey Open Public Records Act ("OPRA"), N.J.S.A. 47:1A-1 et seq.

VNJ's application notes the company's commitment to conform with the Line Extension Policy ("LEP") set forth in the statute, N.J.S.A. 48:5A-28(h)(1), which provides that any systemwide franchise applicant must meet or exceed the LEP set by the incumbent cable television company in each municipality to be served. VNJ has indicated that LEPs will not apply to a significant number of municipalities such that the municipalities (or portions of municipalities based upon the wire centers serving individual neighborhoods) will, effectively, be "full build" municipalities, with all customers offered installation and service at standard rates. In those communities where VNJ has not committed to this "full build" LEP, VNJ will meet or exceed the existing LEP covering the municipality and has included samples of its proposed terms and conditions, as well as a default homes per mile figure of 30.

VNJ's application asserts that it is not subject to rate regulation as it is functioning as an overbuilder and thus exempt under the Federal Communications Commission ("FCC")'s

effective competition regulations as set forth at 47 U.S.C.A. § 543(1). Accordingly, VNJ has provided a schedule of proposed rates and charges, but asserts that the Board has no authority over the rates proposed in that schedule.

VNJ has committed to providing copies of any and all financial agreements, contracts and leases for the cable system within 72 hours for review and copying by the Board, as well as disclosed all other relevant financial information to the OCTV and the Board in the course of the application. In addition, VNJ has committed to providing the OCTV with a copy of its Certificate of Insurance providing coverage to the Board, all municipalities served and the applicant for liability, with such insurance to be in an amount no less than \$5 million in general liability with an excess/umbrella liability limit of \$10 million. Furthermore, VNJ has committed to providing a performance bond in the amount of \$50,000 with the Board for the benefit of municipalities included in the service area of VNJ. VNJ commits to holding harmless the Board and each municipality affected by the application for any liability arising out of the construction and operation of the cable television system.

Finally, VNJ's application includes a verification of Dennis M. Bone that affirms that the contents of the application have been reviewed, that the application is true and correct, and that VNJ will commit to a number of elements, including the holding harmless of the Board and the municipalities served, the installation of free services, that VNJ will meet any consumer protection requirements applicable, pursuant to Board regulations, will comply with all commitments made in the application, and will comply with state and federal emergency alert system rules and regulations. Based upon this application, VNJ calls upon the Board to grant the systemwide franchise.

PUBLIC HEARINGS

Pursuant to the Act, two public hearings were held by the Board in this matter: a hearing in Newark on November 17, 2006 and a hearing in Cherry Hill on November 21, 2006. In each case, the public was invited to provide oral and/or written comment on the application and its process, and both hearings were transcribed by a court reporter, with the transcripts included in the record of this matter. As described below, parties provided comments at both hearings expressing support or opposition to the application. Those in favor, including entities at the Newark Hearing such as the Paterson Chamber of Commerce, IBEW 827, the North Essex Chamber of Commerce, the Middlesex County Chamber of Commerce, and the Union County Economic Development Corporation and entities at the Cherry Hill Hearing such as the New Jersey Alliance for Action, the Info/Age Science and Learning Center, the Glory Tabernacle Church, and the Metro Trenton African American Chamber of Commerce, all cited the positive impacts expected from competition, including decreases in costs, increases in access, the likely increase in employment opportunities, and other advantages for the State and its residents. Overall, these entities asked for an expedited review and approval of the VNJ application.

Those entities opposed, either in part or in whole, to the VNJ application, presented a more diverse set of concerns. At the Newark Hearing, the Public Advocate's Division of Rate Counsel ("Rate Counsel") indicated a number of issues with the application, and called upon the Board to issue a "provisional franchise" until VNJ and the Board were able to work out specific issues associated with prospective compliance with the statute. Specifically, the Rate Counsel had a number of factual questions as to the information provided by the applicant, including the number of towns to be served, the identity of employees who would be managing the video service, and interaction between the regulated telephone business entity and the cable operating business entity. Further, the Rate Counsel asked for information and foundation for

the issue of rates, asserting that an effective competition petition would need to be filed prior to the release of rate regulation by the Board. Finally, the Rate Counsel has a number of questions and concerns as to the financial elements of the application, and thus seeks for the Board to request additional information and promises from the company prior to the approval of even a "provisional franchise." Nevertheless, the Rate Counsel does express its favor of competition in general.

Likewise, Jersey Access Group ("JAG") raised a number of concerns as to the operation of the PEG access channels as it would impact the individual municipalities. JAG noted the need to keep PEG access channels on consistent locations on the channel line-ups, as moving the broadcasts to different channel numbers creates hardship for the PEG access operators. Furthermore, JAG objects to VNJ's decision not to use the local municipality as the local compliant officer, and believes that this failure makes mediation between the municipalities and VNJ more difficult. Finally, JAG is concerned with the nature and amount of PEG access equipment being offered, and the overall financial support as compared to prior, negotiated, municipal franchises.

Cablevision, an incumbent cable television operator in the State, presented a number of basic concerns with the process and the application. Cablevision claims that the application is inappropriate at this time because the Board has not promulgated rules despite the "requirements" of the statute, that the application itself is deficient because it fails to address in sufficient detail issues such as build-out, anti-discrimination and line extensions, and for its failure to include maps with the application. As such, Cablevision called upon the Board to deny the application.

The New Jersey Public Interest Research Group ("NJPIRG") objected to the application, claiming that the application was inadequate or inappropriate because the application did not provide sufficient information as to issues of maps, failed to provide details on technical difficulties and alleged "second tier" services, and was submitted despite the Board not yet having promulgated rules. NJPIRG also objects to elements of the statute that provide "loopholes" for VNJ, and claim that these are such that the application should be denied.

Finally, during the Newark Hearing, an organization called Teletruth testified, noting that this application should be denied because VNJ had already committed to providing fiber optic networking throughout the State under the "Opportunity New Jersey" program, and that VNJ had defaulted on that program to such an extent that the Board should not grant VNJ a franchise. Instead, Teletruth called upon the Board to hold VNJ to the commitments of "Opportunity New Jersey" and to deny the application.

During the Cherry Hill Hearings, a number of additional parties indicated concerns with the VNJ application. Senator Nicholas Asselta (R – 1st District) indicated his disagreement with the statute and the build-out requirements, and noted his belief that the intent of the statute called for a build-out to all municipalities served by the central office in each county seat, and not just the county seat. Similarly, representatives for Assemblyman Paul D. Moriarty (D – 4th District) and Senator Stephen M. Sweeney (D – 3rd District) also spoke out against the process and the application, and called upon the Board to deny the application.

Also speaking against the application at Cherry Hill was the New Jersey Cable Television Association ("NJCTA"), which asserted that the application was deficient, that rules should have been promulgated first, and that VNJ was hiding elements of the application from the public. Based upon these claims, the NJCTA called upon the Board to deny or, at minimum, delay a

decision on the application until after rules had been promulgated and placed into effect. In addition, New Jersey Citizen Action and the president of the Jersey City NAACP also called upon the Board to deny the application.

Beyond that, the remainder of the speakers at Cherry Hill were in favor of the application, noting the likelihood of increased competition, decreased costs, and additional jobs and other benefits to the State and its citizens. These speakers asked the Board to approve the application of VNJ in as expedited a manner as possible. These speakers included: Alfred J. Murphy, Jr., Hillsdale Borough; Association of Independent Colleges and Universities in New Jersey, John B. Wilson; Atlantic City Regional Mainland Chamber of Commerce; Big Brothers Big Sisters of Metro Newark, Inc., Cedric Ashley; Bradley Beach Borough, Mayor Stephen G. Schueler; Calvary Community Development Corporation, Harvey Saunders; Family Resource Center at FBCDC, Frank Lomax; Fernando Munizaga; Glory Tabernacle Church, Viola Thomas-Hughes; Greater Paterson Chamber of Commerce, James Dykes; IBEW Local 827, Dominic Turdo and Rich Spieler; J. Fletcher Creamer & Son, Inc.; Jamesburg Borough, Christopher Maloney, Councilman; Johanna Abud Marun; John Kerfoot, Councilman, Audubon Borough; John M. Brennan, Hillsdale Borough; Joseph M. Kyrillos, Senator, 13th District; Joseph R. Malone, III, Assemblyman 30th District; Lake Como Borough, Michael B. Ryan, Council President; Local 472, Heavy and General Construction Laborers' Union, Roger Ellis; Manville Borough Mayor Angelo Corradino; MCRCC (Middlesex County Regional Chamber of Commerce), Christopher J. Phelan; Michael O' Loughlin; Morris Plains Borough, Mayor Frank J. Druetzler; National Coalition of 100 Black Women, Deborah Witcher Jackson; National Coalition of Latino Clergy and Christian Leaders, Rev. Miguel Rivera; National Latino Peace Officers Association, NJ Chapter, Hector Ramos; NBT (New Brunswick Tomorrow), Jeffrey Vega; New Jersey State Building and Construction Trades Council - AFL-CIO, William Mullen; Newark Regional Business Partnership, Chip Hallock; NJ 2-1-1 Partnership, Thomas M. Toronto; North Essex Chamber of Commerce, Meryl Layton; North Jersey Regional Chamber of Commerce, Gloria Martini; Paterson City, Kenneth M. Morris, Jr. Council President; Perks Reutter Associates, Chris Perks; Reborn Evangelistic Crusade, Bishop Glenn Dickson; Ridgelyfield Borough Mayor Anthony R. Suarez; Second Baptist Church, Rev. Edward Dorn; Somerset County United Way, John Graf, Jr.; Spanish Community Center, Arlene Munoz; State Theatre New Jersey, Wesley O. Brustad; Statewide Hispanic Chamber of Commerce of New Jersey, Daniel H. Jara; The Latino Institute, Inc., William Colon; Thomas P. Giblyn, Assemblyman, 34th District; UCEDC, Maureen Tinen; Urban Network Organization, Casa Uno Community Center, Carmen Miranda; UTCA (Utility and Transportation Contractors Association), Douglas S. Hritz; Victor Fakondo; Woodbridge Metro Chamber of Commerce, John A. Hila, Esq.; HVC Bank, Patrick Ryan; Suburban Chamber of Commerce, Edward Ciuba; Union County Board of Chosen Freeholders, Alexander Mirabella; Branchburg Township, Gregory Bonin; Edwin McGwire; and Woodland Community Development Corporation all filed written comments in support of the expeditious approval of Verizon's application for system-wide franchise. Many of the organizations and citizens listed above also spoke at one of the hearings held in Newark and Cherry Hill. In addition to the written comments either submitted by mail or at one of the hearings, Adrian Council, Positive Community Magazine; Ali Chaudry, Bernards Township; Carlos Costas; William Watson, IBS Compracore; Fred Carl, InfoAge; Wayne Sos, WayComm Consulting; Tom Gilmour, Fair Haven Council President and Asbury Park Chamber of Commerce; and Jerry Keenan, NJ Alliance for Action.

In addition, the Board received a number of written comments. These comments were split between those parties calling upon the Board to deny the application based upon the reasons cited above and those calling upon the Board to approve the application, again based primarily

upon the comments cited above. All of these comments, both in favor and opposed to the application, have been included in the record and have served as a part of the Board's analysis.

ADDITIONAL PROCEDURE

On December 6, 2006, the Board received a comment from the Borough of Wharton, seeking to provide comments on the application and also to "intervene" in the proceeding. The comments have been accepted into the record; the request for intervention is more problematic. As an initial matter, the request for intervention fails to provide any of the regulatory foundation necessary for a motion of this type. N.J.A.C. 1:1-16.3. Furthermore, intervention is predicated upon a "contested case." This matter is not a contested case, but instead has simply been opened to public comment. Intervention in this matter would not place the Township in a position to do anything beyond providing the comments, which, as noted, have been accepted and entered into the record. As such, to the extent the request for intervention could be considered properly filed, it is HEREBY DENIED.

On December 14, 2006, Cablevision filed a request with the Board for a declaratory ruling that the Act and the Administrative Procedure Act require rules prior to Board action, as well as a request that the Board "accelerate" the rulemaking process and suspend VNJ's application until the rules are in effect or, in the alternative, to find VNJ's application incomplete and thus decline to act until the application's deficiencies are remedied. On December 15, 2006, VNJ filed an opposition. Based upon the Administrative Procedure Act, and upon the timing of the request by Cablevision, the Board exercises its discretion and HEREBY DENIES the request for a declaratory ruling as allowed by N.J.S.A. 52:14B-8, based upon the analysis provided below on the issue of rules.

DISCUSSION

It is axiomatic that the Board is bound by the acts of the Legislature, and that the terms and conditions of the systemwide franchise application and approval process have been imposed upon the Board. Likewise, it is axiomatic that the Board will follow the requirements and intent of the statute and will conduct its review of the application in keeping with the Act. To the extent that the Act defines or requires specific elements of the application or approval process, the Board is neither willing nor able to deviate from that process. Modification of the Act falls well outside of the Board's authorized scope and domain. Likewise, the deadlines imposed upon the Board by the legislation are not optional or guidelines; they are mandatory and the Board must operate within that framework. The Board is in no position to determine if the intent, policies and goals set in the legislation are proper – the Board is in the position to review the application within the framework set. As such, the Board will not address those issues raised by parties who are unhappy or dissatisfied with the underlying legislation, but will instead limit its review, as required, to the application itself and the process surrounding it.

RULES

As an initial matter, the Board acknowledges that it accepted the application from VNJ and is conducting this review prior to the effective date of its rules. The Board believes, however, that this is both appropriate and required under the language and policy of the Systemwide Cable Television Franchise Act. The general purpose of the Act was to reduce the barriers to entry and to increase the ability of competitive cable operators to enter and provide service to the customers in the State. N.J.S.A. 48:5A-2. The Act authorizes the Board to promulgate regulations on forms and procedures for the application process, on dispute resolution between

cable companies, and over other elements of the relationship between the systemwide cable operator and the municipalities served. In addition, Executive Order 25 directs the Board to promulgate regulations as to MDUs and the need for access to these facilities. Further, the Act sets out a 90 day enactment period and a 45 day deadline for action once an application is received. The Act itself sets out, in significant detail, the nature of the application, N.J.S.A. 48:5A-16, -28, and the specific elements which the Board may consider in deciding whether or not to grant the application, N.J.S.A. 48:5A-17, -28. Nothing in the Act requires the Board to promulgate rules prior to action; quite the opposite is true, in that the Act sets deadlines in terms of days, not in terms of actions. The Act provides sufficient foundation and direction for the Board to receive and review an application within the framework provided by the legislature, and while the Board may issue regulations it believes are helpful, the Act provides sufficient foundation to allow the Board to act. See Metromedia, Inc. v. Director, Division of Taxation, 97 N.J. 313 (1984) (exemption to rulemaking when a statute is clear on its face); In re Request for Solid Waste Util. Customer Lists, 106 N.J. 508 (1987). Finally, and perhaps most clearly, when the Legislature intends for an agency to be required to issue regulations prior to action, it has made that very obvious. In the original Cable Television Act, section 55 noted:

This act shall take effect immediately, provided however that no municipal consent or certificate of approval may be issued prior to the date on which the rules and regulations required by section 10 [N.J.S.A. 48:5A-10] of this act first take effect. Such rules and regulations shall be promulgated within 120 days following enactment.

[P.L. 1972, c. 186, § 55.]

Thus, the legislature has, in the past, on this very topic, made clear when it believed that the Board could not take action prior to rules being in place. No such language was included in the current enactment and thus the Board's decision to move forward prior to the rulemaking being in effect is both proper and necessitated by the legislature. Thus the Board can, will and is required to act upon the current application.

PROVISIONAL GRANT

In a similar vein, the Public Advocate has called upon the Board to grant VNJ a "provisional franchise," pending the conclusion of a number of issues the Public Advocate believes are outstanding. It is the Board's belief that the legislature has not authorized the granting of a provisional franchise, and thus the Board must either issue or not issue a franchise. The Board intends, however, to condition any grant of a franchise on appropriate and necessary conditions that must be met for VNJ to remain in compliance with the franchise, and it is the Board's belief that this approach both satisfies the legal mandate provided to the Board and allows for the type of continuing oversight that the Public Advocate, as well as the Board, considers proper for this or any other franchise, and which is in keeping with past Board action.

OPRA

A number of commenters have asserted that VNJ has failed to provide sufficient information to the public in this application, and that the failure to produce this information has somehow been illegal or immoral. The application filed by VNJ was filed in two sections – a redacted public version and a proprietary version. The proprietary version was so designated to make clear VNJ's position that it is not subject to production pursuant to OPRA, N.J.S.A. 47:1A-1 et seq.

The application has already been the subject of an OPRA request. In accordance with the provisions of OPRA, it has been determined that the release of the redacted information falls within proper exceptions to the Open Public Records Act. VNJ has noted that its facilities will provide cable television service and will continue to provide telecommunications service. Public maps of this telecommunications system, in addition to being of significant competitive advantage to the incumbent cable television operators, could jeopardize the domestic security of the State by putting at risk the facilities necessary for communication in the event of a disaster or security situation. While any individual may seek the release of the information claimed exempt from OPRA by VNJ, its decision to seek this protection is neither inappropriate nor indicative of any attempt to hide the information from the party that needs to review it under the new rubric set by the Legislature – the Board. The Board² has had full access to all of the information provided and has and will use that information in its determination of the application. As noted above, the Systemwide Cable Television Franchise Act removed the necessity of review by municipalities to provide municipal consent to potential cable television franchisees. Thus, municipalities do not maintain any duty to review a systemwide franchise application under the new Act.

LEGISLATIVE CONSIDERATIONS

As to the substance of the application, the Act requires that “[i]n determining whether a system-wide franchise should be issued, the board shall consider only the requirements of sections 17 and 28 of P.L. 1972, c.186 (C. 48:5A-17 and C. 48:5A-28).” N.J.S.A. 48:5A-16(f). Section 17 then notes that:

[t]he board shall issue a certificate of approval or a system-wide franchise, as appropriate, when, after reviewing the application, and after the required meeting and hearings have been held pursuant to section 16 of P.L. 1972, c.186 (c. 48:5A-16), the applicant establishes to the board's satisfaction that the applicant has all the municipal consents necessary to support the application, if such consents are required, and that such consents and the issuance thereof are in conformity with the requirements of P.L. 1972, c.186 (c. 48:5A-1 et seq.), and that the applicant has complied or is ready, willing and able to comply with all applicable rules and regulations imposed by or pursuant to State or federal law as preconditions for engaging in the applicant's proposed CATV operations;

[N.J.S.A. 48:5A-17(a).]

N.J.S.A. 48:5A-28 then sets forth the elements that are required to appear in the application for a systemwide franchise, and include items such as requiring that the applicant provide sufficient evidence that it has the “financial and technical capacity and the legal, character and other qualifications to construct, maintain and operate the necessary installations, lines and equipment and to provide the service proposed in a safe, adequate and proper manner.” N.J.S.A. 48:5A-28(c). It is within this framework that the Board must make its determination.

² The Division of Rate Counsel has also been provided the full, non-redacted application, under a confidentiality agreement, and thus has full access to all of the information provided, including those elements associated with the review of redlining issues.

While the Board's general review of the application makes it clear that VNJ's application satisfies the requirements set forth by the Legislature, subject to certain conditions and prospective-compliance issues, the Board must nevertheless discuss a number of issues raised during the review process.

SERVICE CENTERS

VNJ's application includes a plan for providing local service offices, with a number to be opened immediately and additional offices to be opened as the number of municipalities served increases. The service offices are scheduled to be opened in strip malls and other major retail locations, and thus include access to mass transit and parking. VNJ has informed the Board that the local offices will include both live assistance as well as direct connections to VNJ customer service representatives. The distance from these service centers to each municipality served varies, but the Board believes that the offices proposed, as well as the additional offices planned, satisfy the requirements for local service offices. In traditional cable franchises, the local service office was often a negotiated element of the municipal consent; here, under the new regime set by the Legislature, this element of negotiation has been explicitly removed from the Act. Thus, the Legislature did not intend for each municipality to be served by a local service office located in the municipality. The regional approach proposed by VNJ seems in keeping with the intent and purpose of this Act. Furthermore, as a competitive cable television operator, if VNJ's service centers do not provide sufficient benefit to its customers, the Board is certain that the competitive pressure will either encourage VNJ to become more responsive to its customers or its customers will seek out other cable or video offerings. That being said, the Board expects VNJ to abide by the plan set forth in the application, and accordingly HEREBY CONDITIONS this franchise upon VNJ's ongoing and continued compliance with the plan for local service centers set forth in its application, and upon the understanding that VNJ will make operational 6 of these offices within 90 days of receipt of this franchise.

PEG CHANNELS

On the issue of PEG access channels and VNJ's commitment to provide continued support and benefits to local municipalities, the Board must once again reconsider its prior requirements in light of the new Act. Traditionally, the PEG access requirements were a significant portion of the municipal consent process, and individual municipalities asserted vastly different needs and desires. With the implementation of the Systemwide Franchise Act, however, the ability of the local municipality to set the PEG access requests has been removed. Under the new Act, an applicant for a systemwide franchise need provide only the PEG access requirements set forth in the statute, and the various forms of negotiated benefits often seen in a traditional franchise have been subsumed into the significant increase in the franchise fee paid to the municipality. Specifically, the language has been changed to indicate that VNJ must provide equipment and training "on a schedule to be agreed upon between the municipality and the CATV company." N.J.S.A. 48:5A-28(l). In light of the spirit and language of the Act, this "agreement" can not be a necessary precursor to providing service, as that would once again require a competitive service provider to negotiate individually with each municipality prior to service; a result explicitly rejected by the Legislature. Thus, the implication of the Act seems clear; basic PEG access will be provided, but additional, municipal-specific needs can and should be provided for by the municipality out of the municipal franchise fee increase and any agreement must be an ongoing, rather than preemptive, aspect of the relationship. Here, VNJ has provided a commitment and plan for the provision of PEG access that appears to satisfy the requirements of the statute. Neither the Board nor the individual municipalities is authorized to demand more in a negotiation

for the grant of a systemwide franchise, and thus the Board must decline to take the steps requested by a number of commenters.

Instead, the Board will accept the plan proposed by VNJ to provide two PEG access channels as well as the commitment to reach agreement with NJEDge for use of the facilities of the various higher education entities around the State. The Act provides that a municipality may request more than two PEG channels but the municipality would have to demonstrate the need for such channels. The Board is responsible for determining whether the municipality has demonstrated that need. The Board HEREBY CONDITIONS this approval, however, upon the requirement that VNJ provide monthly status updates to the Board on the negotiations with NJEDge and that VNJ finalize the agreement with NJEDge no later than June 30, 2007, or else come back before the Board for presentation and approval of a new proposal. PEG access and training are and remain a matter for the Board's review and approval such that the Board requires VNJ to provide continued proof of the steps taken and forward motion. Additionally, the Board reminds VNJ that it will be bound by any and all regulations dealing with PEG access, training and equipment. Finally, the Board notes that the initial proposal for equipment includes limited cameras and other items necessary and appropriate for the production of PEG content. The Board HEREBY CONDITIONS its approval upon the requirement that VNJ will update the equipment list in conjunction with increases in customers and municipal service to ensure that individuals and municipalities have access to the equipment in a non-discriminatory manner. It is noted however, that each municipality is authorized to approve VNJ's schedule for PEG access equipment and training, N.J.S.A. 48:5A-28(l). If a municipality does not, the Board and its OCTV will mediate any issues in contention, if requested by either or both parties to do so, using both the present dispute resolution rules in place as well as the specific PEG dispute resolution rules currently proposed.

REDLINING

One of the central discussions that has surrounded this Act has been the issue of "redlining" or of engaging in a business practice that has been called "fiber to the rich." The Legislature has made clear that no cable television company will be allowed to redline in the State, and the Board is both bound and committed to fight to ensure this result. Within that framework, VNJ's application commits to a policy of providing cable television service to all customers and to making decisions not upon income or other inappropriate foundations, but instead upon business needs and the law. The Board wholly endorses this approach, and has and will continue to provide guidance and rules to ensure that service is provided in a non-discriminatory manner to all customers in the State by all cable operators. Additionally, the Board accepts VNJ's plan for providing service in multiple dwelling units where VNJ claims its standard installation process can not or will not work. Finally, the Board notes that the Department of the Public Advocate and its Division of Rate Counsel have received the non-redacted form of the application. Nevertheless, in order to ensure this non-discriminatory access, and to allow the Board and the Department of the Public Advocate and its Division of Rate Counsel to satisfy their oversight requirements, the Board HEREBY CONDITIONS this approval on VNJ's continued commitment to ensure non-discriminatory service and upon VNJ providing the Board and the Department of the Public Advocate and its Division of Rate Counsel with notification of any and all situations where VNJ decides not to serve multiple dwelling units due to technical constraints within 30 days of VNJ making such determination.

As noted above, the Board has received the necessary maps of the proposed VNJ system, and VNJ has committed to providing additional maps to the Board, during normal business hours, no less than 48 hours prior to system turn-on in each municipality. The Board and its technical staff

have determined that this is sufficient for the Board to conduct its necessary review and to ensure the technical sufficiency of the system once it is used for the provisioning of cable television service. The Board HEREBY CONDITIONS this approval upon VNJ continuing to provide maps of the network in each municipality no less than 48 hours prior to turning on the system in each municipality, and further places VNJ on notice that in the absence of staff receiving the maps in a timely manner, VNJ is forbidden from providing service in those municipalities. The 48 hours will begin once the Board has received the maps during its normal business hours.

LINE EXTENSION POLICY

Under the Act, an applicant for a systemwide franchise must agree to provide a line extension policy ("LEP") that meets or exceeds the LEP offered by the incumbent in each municipality served. The application of VNJ includes a list of those municipalities where the LEP is, in essence, a full build, and where all residents eligible for service will be provided service at standard installation rates. In those areas where VNJ proposes to implement a LEP, the Board believes that, as required by N.J.S.A. 48:5A-28(h)(1), not only the homes per mile but also the terms and conditions must match or surpass the LEP provided by the incumbent. As such, the Board HEREBY CONDITIONS the grant of a franchise upon VNJ's LEP meeting or exceeding any incumbent LEP, including terms and conditions. Furthermore, the franchise is HEREBY CONDITIONED on VNJ providing a list of the streets to be included in a LEP, or else an indication that all streets will be served, to the Board, the municipality and the Rate Counsel, during normal business hours, no less than 48 hours prior to the initiation of service in a municipality. This will give individual municipalities the opportunity to review where VNJ proposes to provide service in furtherance of the anti-redlining requirements.

DOCUMENTS

VNJ has indicated that it will provide the Board with any documents requested within 72 hours for review and copying, but has not indicated that such documents will necessarily be kept in the State. To the extent this is a request to keep documents out of State under N.J.S.A. 48:5A-45(a), the Board HEREBY AUTHORIZES VNJ to keep documents out of State, provided that any and all documents are produced here in the State upon the request of the Board or Board Staff within 72 hours for review and copying. Based upon this grant, the Board HEREBY CONDITIONS the franchise application of VNJ upon its commitment to produce any and all books or records in the State upon within 72 hours of a request by the Board or Board Staff.

RATE REGULATION

The issue of rate regulation has been raised by the Rate Counsel, and it has questioned the need for VNJ to file for effective competition with the Federal Communications Commission prior to the Board recognizing its status as exempt from rate regulation. The Board, based upon its review of the federal effective competition requirements, disagrees. 47 C.F.R. § 79.905 sets forth the criteria for determining whether a cable system is subject to effective competition, and 47 C.F.R. § 79.905 (b)(4) provides that effective competition exists in an area if a local exchange carrier (such as VNJ) offers video service programming in the franchise area of an unaffiliated cable operator (such as Comcast or Cablevision), providing such service is "comparable." Under the system authorized by this franchise, VNJ, a LEC, will be providing comparable service in the franchise area of unaffiliated cable operators, and thus the effective competition definition appears to be triggered.

In order to regulate the rates of a cable service provider, the franchising authority, here the Board, must be certified. 47 C.F.R. § 76.910. This certification requires the Board to assert that the company is not subject to effective competition, 47 C.F.R. § 76.910(b)(4), and in the absence of actual knowledge, the franchising authority may depend upon the presumption in 47 C.F.R. § 76.906. Here, the Board is aware that VNJ is subject to effective competition. There would be no value, and it would require the Board to ignore the basic facts, for the Board to assert rate regulation over VNJ. As such, the Board will decline to certify itself to rate regulate VNJ's operations in those municipalities where an incumbent cable operator is providing cable television service. This does not, however, indicate that the Board is unable or unwilling to exert its rate regulatory role in those municipalities where VNJ may provide service without the rate constraints supposedly provided by the effective competition scheme, or that the Board waives any rate regulation role that may be authorized in the future.

INTERCONNECTION

VNJ has indicated that it will continue to negotiate for the interconnection set forth in the Act. Cablevision and the NJCTA have called upon the Board to require VNJ to have this interconnection in place prior to VNJ being authorized to provide service in a municipality. The Board declines to implement this approach, noting both that the Act does not require it as a precondition, and also noting that the negotiations for the interconnection is between two competitors, VNJ and the incumbent. The Board can not, in keeping with the spirit of the Act, place the ability to stop VNJ's provision of service in the control of its competitors. Accordingly, the Board HEREBY CONDITIONS this franchise upon VNJ's continued negotiations, upon VNJ providing monthly updates to Board Staff and the Department of the Public Advocate and its Division of Rate Counsel on the status of negotiations, and upon VNJ's commitment to seek Board assistance in the event a negotiated agreement can not be reached within 6 months of initiation of negotiation in any particular municipality.

INSURANCE

The application by VNJ included promises to provide both insurance and bond information in a final form. The Board HEREBY CONDITIONS this approval upon VNJ providing, prior to the commencement of any cable television service, full and complete copies of the insurance and bond documents referenced in the application.

TECHNICAL ISSUES

The Board's technical staff has determined that VNJ, while possessing the necessary technical facilities to provide cable television service, would best serve the State by adding a layer of backup to the Freehold VHO to ensure that the citizens of the State will have access to the New Jersey Network ("NJN") in the event of a major disruption to either the Philadelphia or Queens facilities. In order to ensure this continued operations, the Board HEREBY CONDITIONS the grant of this franchise upon VNJ, within 180 days of issuance of the franchise and receipt of any necessary permits and approvals, installing a system whereby the Freehold VHO can receive and transmit the New Jersey Network ("NJN") in the event of a complete operational failure at the sending VHO.

FINDINGS

Based upon these findings, the Board HEREBY CONCLUDES that, pursuant to the Systemwide Cable Television Franchise Act and the Cable Television Act, the Petitioner has complied or is

ready to comply with all applicable rules and regulations imposed by or pursuant to State and federal law as preconditions for engaging in the proposed cable television operations, that the Petitioner has sufficient financial and technical capacity, meets the legal, character and other qualifications necessary to construct, maintain and operate the necessary installations, lines and equipment, and is capable of providing the proposed service in a safe, adequate and proper manner.

Therefore, the Petitioner is HEREBY ISSUED this Systemwide Franchise, for a period of seven years, as evidence of Petitioner's authority to operate a cable television system within the jurisdiction set forth in its application, subject to the following terms and conditions set forth in more detail above:

1. Petitioner shall comply with the plan for local service centers set forth in its application, and shall maintain the local business offices and/or agents for assisting customers in making applications for service, resolving service inquiries, making bill payments and for the purpose of receiving, investigating and resolving complaints as set forth in its application. The Petitioner shall also maintain all required public records in a format suitable for viewing by the affected public at its local offices. Finally, the Petitioner shall make operational 6 local service offices within 90 days of receipt of this franchise.
2. Petitioner shall, notwithstanding any provision of its application, and consistent with the Act, continue to commit to ensuring non-discriminatory service and shall provide the Board and the Department of the Public Advocate and its Division of Rate Counsel with notification of any and all situations where VNJ decides not to serve multiple dwelling units due to claimed technical constraints within 30 days of VNJ making such determination.
3. Petitioner shall provide any and all maps of the network in each municipality no less than 48 hours prior to turning on the system in each municipality, and further places VNJ on notice that in the absence of staff receiving the maps in a timely manner, VNJ is forbidden from providing service in those municipalities. The 48 hours will begin once the Board has received the maps during its normal business hours. The Department of the Public Advocate and its Division of Rate Counsel shall be provided the maps at the same time as the Board, subject to any appropriate confidentiality agreements.
4. Petitioner shall produce any and all books or records in the State upon within 72 hours of a request by the Board or Board Staff.
5. Petitioner shall maintain an informational schedule of prices, terms and conditions for unregulated service and promptly file any revisions thereto. Rate and channel line-up changes shall be performed in accordance with applicable rules.
6. Petitioner may add additional municipalities to its systemwide franchise authorization without seeking approval from the Board. VNJ must provide notice, during normal business hours and no less than 48 hours prior to activation, to the Board, the Department of the Public Advocate and its Division of Rate Counsel and to the affected municipality or municipalities via certified mail.
7. As explicitly required by the Act, the Office of Cable Television is the designated complaint officer for all municipalities served by the Petitioner. All complaints shall be received and processed in accordance with applicable rules.

8. Petitioner shall pay a franchise fee to each municipality served in the amount of 3.5% of the Petitioner's gross revenues, as defined by N.J.S.A. 48:5A-30, paid by subscribers in the municipality.
9. Petitioner shall pay to the State Treasurer, in accordance with its CATV Universal Access Fund now existing or as will exist in the future, an amount of up to 0.5% of the Petitioner's gross revenues, as defined by N.J.S.A. 48:5A-30, paid by subscribers in the systemwide franchise. The Petitioner shall provide copies to the Board of all correspondence regarding payment of this fee to the State Treasurer.
10. Petitioner shall comply with N.J.S.A. 48:5A-28(h), and shall provide service to all residents passed by cable television service in accordance with the line extension policy ("LEP") included in its application, with a homes per mile figure ("HPM") of no greater than 30. Where the existing cable television company maintains a policy whereby residents of a municipality shall be offered service without application of an LEP, the Petitioner shall provide service to all residents likewise. Where residents of a municipality are currently offered service by the existing cable television company in accordance with an LEP with an HPM of less than 30, the Petitioner shall be required to offer service in accordance with the attached LEP with an HPM at least as favorable as the existing cable television company. Additionally, the terms and conditions associated with the LEP shall meet or exceed those provided by the incumbent cable operator in each municipality, and limitations or restrictions imposed in the VNJ LEP beyond those that exist in the incumbent's LEP shall be null and void, and instead shall be modified to match those provided by the incumbent's LEP.
11. Upon identification of a street, streets, or portion(s) of street(s) within a municipality that will be subject to the attached LEP, the Petitioner shall provide notice with a list of the streets in question to the Board, the Department of the Public Advocate and its Division of Rate Counsel and the affected municipality, during normal business hours and no less than 48 hours prior to activation. Upon request of a potential customer, the Petitioner shall also provide a copy of this information to the potential customer.
12. Petitioner shall comply with N.J.S.A. 48:5A-25.2a(1) and (2). The Petitioner must file with the Board if it believes it cannot deploy service as required under N.J.S.A. 48:5A-25.2 for one or more of the following reasons: a) the Petitioner cannot access a development or building because of a claimed exclusive arrangement with another cable television company; b) the Petitioner cannot access a development or building using its standard technical solutions, under commercially reasonable terms and conditions after good faith negotiation; or c) the Petitioner, cannot access the public rights-of-way under reasonable terms and conditions. In its filing, the Petitioner shall provide documentation to the Board, which shall include a thorough description of the reason or reasons supporting such invocation. A copy of any such filing shall be provided to the Department of the Public Advocate and its Division of Rate Counsel at the same time as it is filed with the Board and by the same method of service.
13. Petitioner shall provide public, educational and governmental ("PEG") access channels and facilities in accordance with N.J.S.A. 48:5A-28. Specifically, upon written request, the Petitioner shall provide two PEG access channels to each municipality served by that systemwide franchise. The PEG access channels shall be made available within a reasonable timeframe after the Petitioner begins to provide cable television service within the municipality.

14. If a municipality served by a systemwide franchise requests more than two PEG access channels, it shall demonstrate that its cable-related needs require the provision of additional PEG access channels. In its request for additional PEG access channels, the municipality must provide to the Petitioner, with copies to the Office of Cable Television, proof that: a) the existing cable television operator provides more than two public, educational and governmental access channels for the use of the municipality and the channels are necessary to be continued by the cable television company; or b) the PEG access channels provided by the existing cable television operator are utilized to such an extent that the additional PEG access channels are necessary. The Petitioner may agree voluntarily to provide additional PEG access channels.
15. A municipality served by a systemwide franchise may waive the requirement that the Petitioner provide either one or both of the PEG access channels. If at any time during the systemwide franchise or renewal thereof, the municipality determines it will claim the PEG channel or channels, it may request in writing that the Petitioner provide the PEG access channel or channels to the municipality. The Petitioner shall have 90 days to comply with the municipality's request for a claimed PEG access channel or channels. Until such time as the municipality claims a waived PEG access channel or channels, the Petitioner may utilize the channel or channels for its own purposes in accordance with 47 U.S.C. § 531(d).
16. The municipality shall assume responsibility for the management, operations and programming of the PEG access channels or it may appoint a non-profit designee to act on behalf of the municipality in this capacity. The municipality shall develop rules for the PEG access channels under its management. Nothing herein shall prevent a municipality from entering into an agreement with surrounding municipalities to manage, operate and program the PEG access channels on a joint basis.
17. If the municipality and the Petitioner are unable to agree upon the provision of additional PEG access channels as requested by the municipality, the municipality or the Petitioner may seek dispute resolution with the Office of Cable Television to resolve the matter. The Office of Cable Television shall utilize the procedures specified in the appropriate regulations.
18. Upon written request of a municipality served by a systemwide franchise, the Petitioner shall provide one return line from one location in the municipality to a point of interconnection in its cable television system in order to allow live or taped cablecasting of programming by the municipality. Such service will be provided within such time mutually agreed upon by the cable television company and the municipality.
19. The Petitioner shall interconnect its cable television system as set forth in the Act. A cable television company that has interconnected its PEG access channel or channels with another cable television company may require the second cable television company to pay for half the cable television company's absorbed costs for the extension. If the Petitioner is unable to interconnect with another cable television company because it believes the terms and conditions are not reasonable, it may petition the Board for dispute resolution. The Board shall utilize the procedures set forth in the appropriate regulations.

20. Petitioner shall update the PEG access equipment list in conjunction with increases in customers and municipal service to ensure that individuals and municipalities have real access to the equipment in a non-discriminatory manner.
21. Petitioner shall provide monthly status updates to the Board on the negotiations with NJEDge and that VNJ finalize the agreement with NJEDge no later than June 30, 2007, or else come back before the Board for presentation and approval of a new proposal.
22. Petitioner shall install and maintain, without charge, to each municipality served by the systemwide franchise, one service outlet activated for basic cable television service and Internet service to each fire station, public school, police station, public library and any other such building used for municipal purposes. A municipality shall request in writing that free basic cable television and/or Internet service be installed and shall provide to the Petitioner a list of the municipal service properties or public schools where service is requested. The free service shall be provided within 90 days of the written request by the municipality, provided that the Petitioner passes the municipal service property or public school with its cable television facilities. If the Petitioner does not already have cable television facilities passing the municipal service property or public school and the municipality requests in writing that service be provided to the location, the Petitioner shall provide service within 90 days from the date that it passes the location with cable television facilities.
23. The Petitioner shall provide equipment for the use of municipalities covered by the systemwide franchise without charge. The Petitioner shall provide training in the use of the equipment as well as in general production techniques, without charge. Such training shall be offered upon request of the municipality; and shall be provided in accordance with a schedule agreed upon by the municipality and the Petitioner. Currently, Petitioner proposes to satisfy this requirement through an agreement with NJEDge. The Petitioner shall not be required to provide training for any group of less than six participants, nor shall the cable television company be required to provide training for any municipality more than four times a year, unless otherwise agreed to by the municipality and the Petitioner. The Petitioner may employ an outside entity to provide the equipment and training listed above, as long as the outside entity does not charge users for its services.
24. If the Petitioner believes that the municipality is unreasonable in its demands or if the municipality believes the Petitioner is unreasonable in the satisfaction of the municipality's demands, either party may contact the Office of Cable Television for resolution of the matter. The Office of Cable Television shall use the procedures set forth in its rules in dealing with the complaint.
25. Petitioner shall provide and implement, within 180 days of issuance of the franchise and receipt of any necessary permits and approvals, a system whereby the Freehold VHO can receive and transmit the New Jersey Network ("NJN") in the event of a complete operational failure at the sending VHO.
26. Petitioner, prior to the commencement of any cable television service, shall provide full and complete copies of the insurance and bond documents referenced in the application to the Office of Cable Television.

27. Petitioner is reminded of its obligations as both an excavator and as an operator of underground facilities pursuant to the Underground Facility Protection Act, N.J.S.A. 48:2-73 et seq.
28. Petitioner shall, on a quarterly basis, provide to the Board and the Rate Counsel a report of service activations for the prior quarter to serve as one element of the foundation for the Board and the Rate Counsel to use to fulfill their responsibilities for ensuring the service is provided on a non-discriminatory basis and to serve as one component of the basis for Petitioner's ongoing proof of compliance with the Act.
29. Pursuant to the Systemwide Cable Television Franchise Act, N.J.S.A. 48:5A-28(n), the Petitioner shall meet any consumer protection requirements applicable, pursuant to board regulations, to cable television companies operating under certificates of approval.
30. All commitments and promises made in the application are hereby adopted and included as conditions as if set forth here in more detail, and Petitioners have an ongoing duty to provide substantive updates to the Board and the Rate Counsel as requested by Board Staff.

This Systemwide Franchise is subject to all applicable State and federal laws, the rules and regulations of the Office of Cable Television, and any such lawful terms, conditions and limitations as currently exist or may hereafter be attached to the exercise of the privileges granted herein. To the extent possible based upon the technology used in providing service, the Petitioner shall adhere to the operating standards set forth by the Federal Communications Commission's rules and regulations, 47 C.F.R. §76.1 et seq. including but not limited to, the technical standards 47 C.F.R. §76.601 through §76.630. Any modifications to the provisions thereof shall be incorporated into this Systemwide Franchise.

Failure to comply with all applicable laws, rules, regulations and orders of the Board or the Office of Cable Television and/or the terms, conditions and limitations set forth herein may


subject the Petitioner to penalties, as enumerated in N.J.S.A. 48:5A-51, and/or may constitute sufficient grounds for the suspension or revocation of this Systemwide Franchise

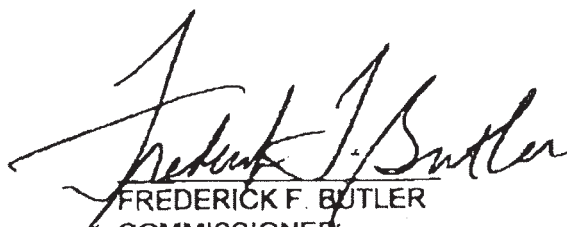
This Systemwide Franchise is issued on the representation that the statements contained in the Petitioner's applications are true, and the undertakings therein contained shall be adhered to and be enforceable unless specific waiver is granted by the Board or the Office of Cable Television pursuant to the authority contained in N.J.S.A. 48:5A-1 et seq.

This Order shall expire seven years from the date of its issuance.


DATED: 12/18/06

BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER


CONNIE O. HUGHES
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER


CHRISTINE V. BATOR
COMMISSIONER

ATTEST:


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EXHIBIT A

Asbury Park City
Audubon Park Borough
Bayonne City
Belleville Township
Bergenfield Borough
Bloomfield Township
Bogota Borough
Bradley Beach Borough
Bridgeton City
Camden City
Cliffside Park Borough
Collingswood Borough
Dover Township (Toms River)
Dumont Borough
East Newark Borough
East Orange City
Edgewater Borough
Elizabeth City
Elmwood Park Borough
Fairview Borough
Fort Lee Borough
Freehold Borough
Garfield City
Guttenberg Town
Hackensack City
Haledon Borough
Hamilton Township (Mays Landing)
Harrison Town
Hasbrouck Heights Borough
Highland Park Borough
Hillside Township
Hoboken City
Irvington Township
Jamesburg Borough
Jersey City
Keansburg Borough
Lake Como
Lodi Borough
Maywood Borough
Middle Township (Cape May Courthouse)
Morristown Town
Mount Holly Township
New Brunswick City
Newark City
North Bergen Township
North Plainfield Borough
Nutley Township
Orange Township
Palisades Park Borough
Passaic City
Paterson City
Perth Amboy City
Plainfield City
Princeton Borough

Prospect Park Borough
Ridgefield Park
Roselle Borough
Roselle Park Borough
Salem City
Shrewsbury Township
Somerville Borough
Trenton City
Union City
Victory Gardens Borough
Wallington Borough
Weehawken Township
West New York Town
Winfield Township
Woodbury City
Woodlynne Borough
Aberdeen Township
Allendale Borough
Allenhurst Borough
Allentown Borough
Alpine Borough
Atlantic Highlands Borough
Audubon Borough
Avon-by-the-Sea Borough
Barrington Borough
Bay Head Borough
Bedminster Township
Belmar Borough
Berkeley Heights Township
Berlin Borough
Berlin Township
Bernards Township
Bernardsville Borough
Bordentown City
Bordentown Township
Bound Brook Borough
Branchburg Township
Brick Township
Bridgewater Township
Brielle Borough
Caldwell Borough
Carlstadt Borough
Cedar Grove Township
Chatham Borough
Chatham Township
Cherry Hill Township
Chesilhurst Borough
Chesterfield Borough
Clayton Borough
Clifton City
Closter Borough
Colts Neck Township
Cranbury Township
Cranford Township
Cresskill Borough
Deal Borough

Demarest Borough
Denville Township
Dover Town
Dunellen Borough
East Greenwich Township
East Hanover Township
East Rutherford Borough
East Windsor Township
Eastampton Borough
Eatontown Borough
Elsinboro Township
Emerson Borough
Englewood City
Englewood Cliffs Borough
Englishtown Borough
Essex Fells Borough
Evesham Township
Ewing Township
Fair Haven Borough
Fair Lawn Borough
Fairfield Township
Fanwood Borough
Far Hills Borough
Farmingdale Borough
Fieldsboro Borough
Florham Park Borough
Franklin Township
Franklin Lakes Borough
Freehold Township
Garwood Borough
Glassboro Borough
Glen Ridge Township
Glen Rock Borough
Green Brook Township
Greenwich Township
Greenwich Township
Haddon Township
Haddon Heights Borough
Haddonfield Borough
Hainesport Township
Hamilton Township
Hanover Township
Harding Township
Harrington Park Borough
Haworth Borough
Hawthorne Borough
Hazlet Township
Helmetta Borough
Highlands Borough
Hightstown Borough
Hillsdale Borough
Ho-ho-kus Borough
Holmdel Township
Hopewell Township
Hopewell Borough
Hopewell Township

EXHIBIT A

Howell Township	North Brunswick Township	Spring Lake Heights Borough
Interlaken Borough	North Caldwell Township	Springfield Township
Island Heights Borough	North Haledon Borough	Summit City
Kearny Town	Northvale Borough	Tavistock Borough
Kenilworth Borough	Norwood Borough	Teaneck Township
Keyport Borough	Oakland Borough	Tenaflly Borough
Lakewood Township	Oaklyn Borough	Teterboro Borough
Lawnside Borough	Ocean Township	Tinton Falls Borough
Lawrence Township	Oceanport Borough	Totowa Borough
Leonia Borough	Old Tappan Borough	Union Township
Lincoln Park Borough	Oradell Borough	Union Beach Borough
Little Falls Township	Paramus Borough	Upper Freehold Township
Little Ferry Borough	Park Ridge Borough	Upper Saddle River Borough
Little Silver Borough	Parsippany Troy Hills	Verona Township
Livingston Township	Paulsboro Borough	Voorhees Township
Loch Arbour Village	Peapack Gladstone Borough	Waldwick Borough
Long Branch City	Pennington Borough	Wall Township
Long Hill Township	Piscataway Township	Warren Township
Lumberton Township	Pitman Borough	Washington Township
Lyndhurst Township	Plainsboro Township	Washington Township
Madison Borough	Point Pleasant Borough	Watchung Borough
Mahwah Township	Point Pleasant Beach Borough	Waterford Township
Manalapan Township	Princeton Township	Wayne Township
Manasquan Borough	Ramsey Borough	West Caldwell Township
Mansfield Township	Randolph Township	West Deptford Township
Mantoloking Borough	Raritan Borough	West Long Branch Borough
Manville Borough	Red Bank Borough	West Orange Township
Maplewood Township	Ridgefield Borough	West Paterson Borough
Matawan Borough	Ridgewood	West Windsor Township
Medford Township	River Edge Borough	Westfield Town
Medford Lakes Borough	River Vale Township	Westwood Borough
Mendham Borough	Rochelle Park Township	Weymouth Township
Mendham Township	Rockaway Borough	Wharton Borough
Middlesex Borough	Rockaway Township	Winslow Township
Middletown Township	Rockleigh Borough	Woodbury Heights Borough
Midland Park Borough	Rocky Hill Borough	Woodcliff Lake Borough
Millburn Township	Roosevelt Borough	Wood-Ridge Borough
Millstone Township	Roseland Borough	Wyckoff Township
Mine Hill Township	Roxbury Township	
Monmouth Beach Borough	Rumson Borough	
Monroe Township	Rutherford Borough	
Monroe Township	Saddle Brook Township	
Montclair Township	Saddle River Borough	
Montvale Borough	Sayreville Borough	
Montville Township	Scotch Plains Township	
Moonachie Borough	Sea Bright Borough	
Morris Township	Sea Girt Borough	
Morris Plains Borough	Secaucus Town	
Mount Olive Township	Shrewsbury Borough	
Mountainside Borough	South Amboy City	
National Park Borough	South Bound Brook Borough	
Neptune Township	South Brunswick Township	
Neptune City Borough	South Hackensack Township	
New Milford Borough	South Orange Village Township	
New Providence Borough	Spotswood Borough	
North Arlington Borough	Spring Lake Borough	



Agenda Date: 1/29/14

Agenda Item: 3A

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

CABLE TELEVISION

IN THE MATTER OF THE APPLICATION OF VERIZON) SYSTEM-WIDE CABLE
NEW JERSEY, INC. FOR RENEWAL OF A SYSTEM-) TELEVISION FRANCHISE
WIDE CABLE TELEVISION FRANCHISE) RENEWAL
)
) **DOCKET NO. CE13080756**

Parties of Record:

William D. Smith, Esq., Assistant General Counsel, Verizon New Jersey, Inc.
Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD¹:

On December 18, 2006, the Board of Public Utilities ("Board") issued an Order approving a System-wide Franchise for 316 municipalities to Verizon New Jersey, Inc. ("Verizon" or "Petitioner") in Docket No. CE06110768 for a term of seven years to expire on December 18, 2013. This system wide franchise was reviewed and approved pursuant to N.J.S.A. 48:5A-17(a). Pursuant to N.J.A.C. 14:18-14.14, which requires Verizon to provide notice to the Board and the affected municipalities of its intention to add municipalities to its existing System-wide Cable Television Franchise, Verizon added an additional 64 municipalities and is currently authorized to provide service to 379 municipalities in the State². The addition of these municipalities were memorialized in Orders of Amendment issued by the Board on August 1, 2007, for thirty-two municipalities; on April 9, 2008, for ten municipalities; on October 23, 2008, for one municipality; on April 27, 2009, for nine additional municipalities; on July 29, 2009, for one municipality; on April 11, 2012, for one municipality; on November 20, 2012, for one municipality; on April 29, 2013, for one municipality; and July 19, 2013, for seven municipalities. During the pendency of this petition, Verizon filed for an additional municipality: Stow Creek Township in Cumberland County and this order will serve to memorialize the addition of Stow Creek Township into Verizon's System-wide Cable Television Franchise. A list of the

¹ Commissioner Mary-Anna Holden abstained on this matter.

² In January of 2013, Princeton Borough and Princeton Township merged. Therefore, the initial number of 316 municipalities and the added 64 municipalities results in 379 municipalities where Verizon is authorized to provide service.

municipalities included in Verizon's System-wide Cable Television Franchise is attached as Exhibit "I".

BACKGROUND

On May 4, 2011, the Board notified Verizon of its intention to review its performance under its system-wide franchise pursuant to 47 U.S.C. § 546, N.J.S.A. 48:5A-19(b) and N.J.A.C. 14:18-14.16. On February 1, 2012, the Board invited Verizon to file comments on its performance under its System-wide Cable Television Franchise and to assess how it will meet the future needs of the communities listed in its franchise application. Verizon filed its Initial Comments with the Board on April 16, 2012. Pursuant to N.J.A.C. 14:18-14.17, on May 30, 2013, the Board issued a report ("Ascertainment Report") on Verizon's performance under its System-wide Cable Television Franchise and the future system-wide cable television franchise needs of the State and the municipalities under the system-wide franchise.

On August 20, 2013, Verizon filed for renewal of its System-wide Cable Television Franchise, pursuant to N.J.S.A. 48:5A-19 and N.J.A.C. 14:18-14.18. Pursuant to N.J.A.C. 14:18-14.3, the Board was required to hold two public hearings in this matter. A hearing was held in Newark on October 1, 2013 and a hearing was held in Trenton on October 3, 2013. Additionally, written comments were accepted between October 1, 2013 and October 30, 2013.

Following its review of Verizon's application and the comments received, Board Staff issued discovery requests to Verizon on November 21, 2013, seeking additional follow-up information. Verizon provided response to the Board's requests on December 12, 2013.

PUBLIC COMMENTS

At both hearings, the public was invited to provide oral and/or written comment on the application, and both hearings were transcribed by a court reporter, with the transcripts included in the record of this matter. Some commenters supported the renewal and others opposed or requested additional conditions be placed on Verizon in return for renewal of its System-wide Cable Television Franchise. At the Newark Hearing, the following parties offered comments in favor of the renewal: the Association of Independent Colleges and Universities in New Jersey; Morris County Chamber of Commerce; Hudson County Economic Development Corporation; Newark Regional Business Partnership; Meadowlands Regional Chamber; the Statewide Organization (UCDEC); Adrian Council, publisher, Positive Community; and Greater Paterson Chamber of Commerce. In Trenton, support for the renewal was offered by: Alan Goeltz; Joan McGinnis Knorr; Southern New Jersey Development Council; Loretta Kuhnert; and Wanda Garcia. Overall, these entities asked for an expedited review and approval of the Verizon's System-wide Cable Television Franchise application. All cited the positive impacts realized by Verizon's competition in the cable television market, including decreases in costs, increases in fees paid and other benefits to municipalities, as well as other advantages for the State and its residents. Mayor Anthony Suarez, Borough of Ridgefield, submitted written comments in support of the renewal

The following commenters were in opposition to the renewal or in favor of conditional approval: in Newark, Bruce Kushnick; and in Trenton, IBEW Local 827; Thomas Allibone; and Gordon Cook, Cook Report. Written comments were received from AARP; Communications Workers of America District One (CWA); IBEW Local 827; Issues Management, LLC on behalf of New Jersey State Electrical Workers Association; Assemblyman Daniel R. Benson; Franklin Township (Somerset County); West Amwell Township, by resolution; Chatham Borough; and various residents of municipalities where Verizon does not provide service or provides service to limited portions of their

respective municipalities. Those entities expressed opposition, either in part or in whole, to the renewal of Verizon's System-wide Cable Television Franchise application, and presented a more diverse set of concerns.

Assemblyman Benson, IBEW Local 827, AARP, CWA, Issues Management, Franklin Township, West Amwell Township, Gordon Cook, Thomas Allibone and Bruce Kushnick all noted that Verizon should not be granted a renewal without significant conditions because: 1) Verizon had already committed to providing fiber optic networking throughout the State under the "Opportunity New Jersey" ("ONJ") program; and 2) Verizon is deserting its obligation to provide plain old telephone service ("POTS") in portions of the state, specifically, Bay Head Borough and Mantoloking Township, where its copper infrastructure was damaged by Superstorm Sandy in October of 2012 by providing service via its wireless communications service product known as "VoiceLink". Assemblyman Benson additionally expressed concern regarding Verizon's reasoning for continuing with this project in New Jersey while abandoning it in Fire Island, New York due to the existence of a traditional cable television provider, Comcast, in the area. Assemblyman Benson noted that, "If one of the public benefits of the State Act was to provide competitive cable television offerings in New Jersey, the reasoning not to provide wireline service in Mantoloking stands the State Act's goals on its head." IBEW Local 827 and CWA further argued that Verizon does not have the personnel available to maintain its telecommunications service in good working order. The parties argued that cuts to personnel have delayed installations and repairs to both its POTS service and its FIOS cable television service.

The New Jersey Division of Rate Counsel ("Rate Counsel") cautioned the Board to examine the record and Verizon's application fully prior to issuance of the Renewal System-wide Cable Television Franchise.

A number of commenters wrote that the statute which enabled Verizon to receive its System-wide Cable Television Franchise was unfair in that it required Verizon to provide service to all residents in only 70 municipalities, rather than its entire service territory. These commenters include: Carl and Margaret Brignola; Beth Slatnick; Gary Gregory; Eugene Bernhardt; Julio Perez; Roland M. LaCorte; Cynthia LaCorte; Francis Mattas; W. Sommer; Frederick H. Ochs; Howell Walton; Patricia Sobotka; James McGuire; Martin Nalbandian; Edward H. Moore; Archie Black; Brenda Black; and Ruth Chamber.

DISCUSSION

In 2006, the Legislature passed amendments to the State Cable Act which allowed Verizon to apply for and receive a System-wide Cable Television Franchise from the Board (P.L. 2006, c. 83). The Legislature articulated certain restrictions and pre-conditions the Board could consider prior to approving any system-wide franchise applicant. The Board is bound by the enabling statute and the adopted rules for application and enforcement. As such, the Board cannot address those issues raised by parties who are unhappy or dissatisfied with the underlying legislation, but will instead limit its review, as required, to the application for renewal of Verizon's System-wide Cable Television Franchise, as permitted by statute and the rules.

In determining whether to issue Verizon a renewal of its System-wide Cable Television Franchise, the Board may only consider that which is allowed by the State Cable Act, which provides, at N.J.S.A. 48:5A-16(f), that "[i]n determining whether a system-wide franchise should be issued, the board shall consider only the requirements of sections 17 and 28 of P.L. 1972, c.186 (C. 48:5A-17 and C. 48:5A-28)."

N.J.S.A. 48:5A-17 permits the Board to issue a system-wide franchise following its review of the application, where it finds the applicant has complied or is ready, willing and able to comply with all applicable rules and regulations imposed or pursuant to State or federal law as preconditions for providing cable service. N.J.S.A. 48:5A-28 sets forth the elements in the application for a system-wide franchise and the required commitments of a system-wide franchise applicant. The Board's review of the application makes it clear that Verizon's application satisfies the requirements set forth by the Legislature, subject to certain conditions and compliance issues.

The Board notes that many commenters raised issues regarding Verizon's VoiceLink service and the ONJ plan during the review process, which were outside the scope of the current proceeding. Verizon has applied for a renewal of its System-wide Cable Television Franchise and pursuant to statute, only that matter is under consideration here. Similarly, as discussed above, many commenters also requested that Verizon be required to provide FiOS service to the entirety of all towns within its New Jersey service area. As noted above, pursuant to the State Cable Act, the Board is precluded from requiring Verizon to provide service beyond the 70 required municipalities. Specifically, N.J.S.A. 48:5A-25.2 requires Verizon to provide service to all residents in: 1) each county seat in Verizon's telecommunications service area; and 2) each municipality in Verizon's telecommunications service area that had a population density greater than 7,111 persons per square mile of land area based on the 2000 US Census. This equates to 70 municipalities. Beyond these 70 municipalities, Verizon can choose to deploy service at its discretion. It is noted that although it has no obligation outside the core municipalities, Verizon is currently providing service in parts of 355 municipalities.³

BUILD OUT REQUIREMENTS

Pursuant to N.J.S.A. 48:5A-25.2a(2), Verizon is required, subject to certain exceptions with respect to multiple dwelling units (MDUs), to make its FiOS cable service available throughout the residential areas of the 70 must build municipalities within six years of the date service was initially made available. Based on Verizon's initial dates of service offerings, the completion dates for the 70 must build municipalities ranged from December 2012 through December 2015. As required by the initial System Wide Franchise Order, Verizon currently provides the Board and Rate Counsel with quarterly service activation reports, which are used to determine Verizon's compliance with the deployment commitment timelines and ensure Verizon's provision of service on a non-discriminatory basis. The Board noted in its Ascertainment Report that Verizon had furnished information to the Board via its quarterly reports that it had achieved full availability of FiOS service in each of the 10 towns that were required for completion as of December 2012. Verizon was due to complete an additional 25 municipalities by year-end 2013, with the remaining half of the 70 required towns to be completed by year-end 2015. To date, Verizon has furnished information to the Board in its quarterly activation reports indicating that it has completed deployment in a timely fashion for all of the required towns which were due by the third quarter of 2013. Verizon's report on its 4th quarter 2013 activations, which is still pending, is expected to provide data to the Board evidencing satisfaction of the required build out for the remainder of the 25 municipalities that are due to be completed by year-end 2013.

In response to questions from Commissioner Fox at the public hearing regarding Verizon's ability to meet its build out requirements for the 35 towns within two years by the end of 2015, Verizon submitted a response where it indicated that "[i]n addition to the tremendous amount of

³ Although Verizon is authorized to serve 379 municipalities under their franchise, they are currently offering service in only 355 municipalities.

work that has already been completed, on schedule, with respect to 35 of the "must-build" municipalities, it is important to remember that Verizon has already deployed FiOS TV services to large parts of the 35 "must-build" towns that must be completed by the end of 2015."⁴

As noted above, Verizon is required to report to the Board each quarter on the service activations that have occurred in the prior quarter. Since Verizon's deployment commitments for the remaining half of the 70 required municipalities extend to 2015, it is imperative that Verizon continue to provide the Board with information on its deployment activity so that the Board may properly fulfill its statutory obligation of ensuring that Verizon is meeting its deployment commitments as required under the franchise. The Board **HEREBY CONDITIONS** Verizon's renewal franchise upon its compliance with the statutory deployment commitments pursuant to N.J.S.A. 48:5A-25.2 for the 70 required municipalities, and Verizon shall continue to provide the Board with quarterly service activation reports of its progress through the verified completion of the 70 must build municipalities. Any failure by Verizon to comply with the completion of the deployment deadlines for the 70 must build towns shall be considered a violation of the franchise, which may be enforced by the Board pursuant to N.J.S.A. 48:5A-28.2.

MDU WAIVERS / ACCESS PETITIONS

As noted above, although Verizon's deployment commitments to the 70 required towns requires service to MDUs, Verizon must seek a waiver from the Board pursuant to N.J.S.A. 48:5A-25.2 and the initial Franchise if it believes it cannot deploy service as required for one or more of the following reasons: "a) the Petitioner cannot access a development or building because of a claimed exclusive arrangement with another cable television company; b) the Petitioner cannot access a development or building using its standard technical solutions, under commercially reasonable terms and conditions after good faith negotiation; or c) the Petitioner, cannot access the public rights-of-way under reasonable terms and conditions."

Pursuant to N.J.S.A. 48:5A-25.2, Verizon has submitted numerous waiver filings to the Board which have included properties located within the 70 required municipalities. Information provided in the waiver filings, along with Verizon's quarterly service activation reports are used to assist the Board in determining Verizon's compliance with its deployment commitments and to ensure Verizon's deployment of its services in a non-discriminatory manner. During its review, Staff determined discrepancies in two of Verizon's waiver filings involving two of the 70 required municipalities, where Verizon had previously indicated that deployment had been completed. In September and October of 2013, Verizon sought to amend two of its pending waiver filings with the Board submitted in 2012, to seek waivers of MDU properties that were located in Hackensack and Bloomfield, respectively.⁵ In its review of these filings, Staff noted that the deadline for completion of deployment in both towns was January 2013. Staff therefore requested that Verizon provide an explanation and why they should not be considered a violation of the franchise obligations.

In its response Verizon indicated that the delayed filings were generally due to administrative oversights, and that they should not be considered a franchise violation because neither the statute nor the rules require that waiver petitions be filed prior to the deployment completion

⁴ Verizon NJ, Inc.'s response to Questions from Commissioner Fox at the October 1, 2013 Public Comment Hearing and Response to Miscellaneous Issues Raised at both Public Comment Hearings, October 25, 2013 at p.1.

⁵ On or around September 12, 2013, Verizon filed an "amendment" to a waiver filing originally submitted to the Board on November 8, 2012 in Docket CO12111023, seeking to add 6 MDU properties in Hackensack. Subsequently, on October 29, 2013, Verizon filed an "amendment" to a waiver filing originally submitted on December 21, 2012 in Docket CO12121087, seeking to add 1 MDU property in Bloomfield.

deadline. As noted in the initial Franchise Order, the Board is bound under the statute to ensure that Verizon's provision of its FIOS service is conducted in a non-discriminatory manner, and that "redlining" does not occur. Although the Board accepted Verizon's plan for providing service in multiple dwelling units where Verizon's standard installation process cannot or will not work in its Initial Franchise Order, the Board conditioned Verizon's approval on the provision of notice where it couldn't provide service in a timely fashion. The Board noted in its Order approving Verizon's initial Franchise:

Nevertheless, in order to ensure this non-discriminatory access, and to allow the Board and [Rate Counsel] to satisfy their oversight requirements, the Board HEREBY CONDITIONS this approval on VNJ's continued commitment to ensure non-discriminatory service and upon VNJ providing the Board and [Rate Counsel] with notification of any and all situations where VNJ decides not to serve multiple dwelling units due to technical constraints within 30 days of VNJ making such determination.

I/M/O the Application of Verizon New Jersey, Inc. for a System-wide Cable Television Franchise, Docket No. CE06110768, December 22, 2006, at 12.

In this instance, the waiver petitions were provided outside of the time parameter, and beyond the deployment commitment deadline for the municipality. The Board's ability to ensure that Verizon is meeting its deployment commitments and that it remains consistent with the legislative intent prohibiting redlining is undisputedly tied to Verizon's provision of both accurate and timely reporting to the Board on its deployment commitments. Currently, Verizon's quarterly activation reports provided to the Board indicate that they are inclusive of the waiver petitions, but they do not include detailed information. In light of the fact that Verizon is required to complete its deployment in the 70 required towns within the next two years, the Board HEREBY CONDITIONS Verizon's renewal franchise upon Verizon's continued provision of the quarterly service activation reports, along with additional information with respect to the 70 required towns to include: the total addresses subject to waiver petitions and date filed; the total addresses subject to mandatory access petitions and date filed. The Board FURTHER CONDITIONS Verizon's renewal franchise upon completion of the deployment in the 70 required towns, including the filing of any waiver petitions within 30 days of Verizon making such determination, but all such waiver applications shall be filed prior to the required date of completion for deployment for the municipality in which the MDU is located.

PEG Access Channels/Return Lines

With regard to the issue of public, educational and governmental ("PEG") access channels, Verizon, pursuant to N.J.S.A. 48:5A-28(l), will continue to provide two PEG access channels to any municipality in its cable service territory that requests them. Verizon shall also continue to provide and maintain a return line to one location in each requesting municipality

The Borough of Chatham filed comments that Verizon had not fulfilled its requirements under its System-wide Cable Television Franchise because it had not interconnected its PEG access channel with the CSC TKR, LLC d/b/a Cablevision of Morris feed, thus requiring the Borough to send two separate feeds to enable all Borough cable television customers to view the Borough's PEG access channel. Verizon responded that it had met the obligation by providing a direct connection, via return line, from the Borough to a point of distribution in its system. Verizon noted that it had spoken to the PEG access channel's manager and confirmed that a distribution

amplifier was in place which allowed cable television customers of either company to view the PEG access feed in real time.

The Board notes that the statute provided for interconnection between all cable television operators in a municipality. Specifically, N.J.S.A. 48:5A-28(i) provides:

Any and all CATV companies operating in a municipality shall provide interconnection to all other CATV companies on reasonable terms and conditions, and the board shall adopt regulations for procedures by which disputes between such CATV companies shall be determined and expeditiously resolved.

The Board adopted rules for disputes. Specifically, N.J.A.C. 14:18-15.4 states:

- (d) Each cable television company serving a municipality must provide interconnection to its cable television system to any other cable television company serving the same municipality for the purposes of interconnecting public, educational and governmental access channels on reasonable terms and conditions.
 - 1. A cable television company that has interconnected its public, educational and governmental access channel or channels with another cable television company may require the second cable television company to pay for half the cable television company's absorbed costs for the extension.
 - 2. If a cable television company is unable to interconnect with another cable television company because it believes the terms and conditions are not reasonable, it may petition the Board for assistance in resolution of the dispute. The Board shall utilize the procedures set forth in N.J.A.C. 14:17-8.

In 2007, Verizon filed for assistance from the Board to interconnect with cable television companies in the State in the municipalities where it was providing service. Verizon noted that it wanted to interconnect with the cable television companies rather than installing return lines to each municipality for a number of reasons, among them expense and ability to provide the PEG access channels sooner than when it passed the location with its cable television service. Verizon was able to negotiate full interconnection with Time Warner Cable and limited interconnection with Comcast Corporation, but was unable to come to terms with Cablevision Corporation. In October of 2008, the Board issued an order requiring Cablevision to interconnect its PEG access channels with Verizon. In December of 2008, Verizon withdrew its request to interconnect with Cablevision, noting that it would install individual return lines instead. The imposed terms were too onerous and costly. Since Verizon requested assistance, it was within its discretion to withdraw its request.

N.J.S.A. 48:5A-28(m) states, in relevant part:

With regard only to applications for a system-wide franchise, a commitment to provide a return feed from any one location in the municipality, without charge, to the CATV company's headend or other location of interconnection to the cable television system for public, educational or governmental use, which return feed, at a minimum, provides the ability for the municipality to cablecast live or taped access programming, in real time, as may be applicable, to the CATV company's customers in the municipality. No CATV company is responsible for providing a return access feed unless a municipality requests such a feed in writing. A CATV company that has interconnected with another CATV

company may require the second CATV company to pay for half of the CATV company's absorbed costs for extension.

The Borough's cable television customers are receiving the Borough's PEG access feed in real time. Therefore, the Board is satisfied that Verizon has met its obligation under its System-wide Cable Television Franchise to interconnect PEG access channels in the Borough of Chatham in this manner.

CONCLUSION

Based upon these findings, the Board **HEREBY CONCLUDES** that, pursuant to the System-wide Cable Television Franchise Act and the Cable Television Act, the Petitioner has complied or is ready to comply with all applicable rules and regulations imposed by or pursuant to State and federal law as preconditions for engaging in the proposed cable television operations, that the Petitioner has sufficient financial and technical capacity, meets the legal, character and other qualifications necessary to construct, maintain and operate the necessary installations, lines and equipment, and is capable of providing the proposed service in a safe, adequate and proper manner.

Therefore, the Petitioner is **HEREBY ISSUED** this Renewal System-wide Cable Television Franchise, for a period of seven years, as evidence of Petitioner's authority to operate a cable television system within the jurisdiction set forth in its application, subject to the following conditions:

1. All of the commitments, statements and promises contained in the application for renewal of this System-wide Cable Television Franchise and any amendments thereto submitted in writing to the Board, except as modified herein, are hereby adopted and binding upon Verizon as terms and conditions of this Renewal System-wide Cable Television Franchise, and included as conditions as if fully set forth herein. The application and any other relevant writings submitted by Verizon shall be considered a part of this System-wide Cable Television Franchise and made part hereof by reference.
2. Verizon shall provide any and all maps of the network in each municipality at least two business days and not less than 48 hours prior to turning on its system in any municipality. Verizon is on notice that in the absence of staff receiving the maps in a timely manner, Verizon is forbidden from providing service in those municipalities. Rate Counsel shall be provided the maps at the same time as the Board, subject to any appropriate confidentiality agreements.
3. Verizon shall comply with N.J.S.A. 48:5A-28(h), and shall provide service to all residents passed by cable television service in accordance with the line extension policy ("LEP") included in its application with a homes per mile ("HPM") of no greater than 30. Where the existing cable television company maintains a policy whereby residents of a municipality shall be offered service without application of an LEP, Verizon shall provide service to all residents likewise. Where residents of a municipality are currently offered service by the existing cable television company in accordance with an LEP of less than 30, the Petitioner shall be required to offer service in accordance with the attached LEP with an HPM at least as favorable as the existing cable television company. Additionally, the terms and conditions associated with the LEP shall meet or exceed those provided by the incumbent cable television operator in each municipality, and limitations and restrictions imposed in the Verizon LEP beyond those that exist in the incumbent's LEP

shall be null and void, and instead shall be modified to match those provided by the incumbent's LEP.

4. Upon identification of a street, streets, or portions of streets within a municipality that will be subject to the attached LEP, Verizon shall provide notice with a list of the streets in question to the Board, Rate Counsel, and the affected municipality, during normal business hours and no less than 48 hours prior to activation. Upon request of a potential customer, Verizon shall also provide a copy of this information to the potential customer.
5. Verizon shall continue to comply with the statutory deployment commitments for the 70 required municipalities, pursuant to N.J.S.A. 48:5A-25.2(a)(1) and (2). Any failure by Verizon to comply with the completion of the deployment deadlines for the 70 required municipalities shall be considered a violation of the franchise, which may be enforced by the Board pursuant to N.J.S.A. 48:5A-28.2.
6. Verizon shall continue, on a quarterly basis, to provide to the Board and Rate Counsel a report of service activations for the prior quarter, which shall also include information on total addresses subject to pending MDU waiver and mandatory access petitions beginning with the 1st quarter 2014 report, to serve as one element of the foundation for the Board and Rate Counsel to use to fulfill their responsibilities for ensuring the service is provided on a non-discriminatory basis and to serve as one component of the basis for Petitioner's ongoing proof of compliance with the Franchise and the Act.
7. In the event Verizon believes it cannot deploy service as required under N.J.S.A. 48:5A-25.2 because: a) it cannot access a development or building because of a claimed exclusive arrangement with another cable television company; b) it cannot access a development or building using its standard technical solutions, under commercially reasonable terms and conditions after good faith negotiation; and/or c) it cannot access the public rights-of-way under reasonable terms and conditions, Verizon shall continue to provide the Board and Rate Counsel with notification by filing for relief of deployment requirements within 30 days of Verizon making such determination, pursuant to N.J.A.C. 14:18-15.3. Any petition by Verizon seeking relief of deployment requirements shall be filed prior to the required date of completion of deployment for the municipality in which the MDU is located.
8. Verizon may add additional municipalities to its System-wide Cable Television Franchise without seeking approval from the Board, in accordance with N.J.A.C. 14:18-14.14. Verizon must provide notice at least 48 hours prior to activation to the Board, Rate Counsel and the affected municipality via certified mail.
9. Verizon shall continue to maintain local service centers as set forth in its application and shall maintain local business offices and/or agents for assisting customers in making applications for service, resolving service inquiries, making bill payment and for the purpose of receiving, investigating and resolving complaints. Verizon shall maintain all required public records in a format suitable for viewing by the affected public at its offices. Verizon shall maintain its local offices in accordance with applicable law.
10. The designated complaint officer for all municipalities in Verizon's System-wide Cable Television Franchise is the Office of Cable Television.

11. Verizon shall pay a franchise fee to each municipality served in the amount of 3.5% of its gross revenues, as defined by N.J.S.A. 48:5A-3(x) and -30(d), paid by subscribers in the municipality.
12. Verizon shall pay to the State Treasurer, in accordance with its CATV Universal Access Fund now existing or as will exist in the future, an amount of up to 0.5% of its gross revenues, as defined by N.J.S.A. 48:5A-3(x) and -30(d), paid by subscribers in the municipality.
13. Verizon shall produce any and all books or records within 72 hours of a request by the Board or Board Staff.
14. Verizon shall maintain an informational schedule of prices, rates, terms and conditions for unregulated service and promptly file any revisions thereto. Rate and channel line-up changes shall be performed in accordance with applicable rules.
15. Upon written request of a municipality served by its System-wide Cable Television Franchise, Verizon shall provide or continue to provide and maintain return lines or other method of interconnection from any one location in the municipality, without charge, to a location of interconnection in its cable television system in order to allow live or taped cablecasting of PEG programming by the municipality. The return line or interconnection shall be provided in accordance with N.J.A.C. 14:18-15.4(c).
16. Upon written request of a municipality served by its System-wide Cable Television Franchise, Verizon shall provide and maintain up to two PEG access channels. If a municipality requests more than two PEG access channels, the municipality shall demonstrate the need for the additional PEG access channels in accordance with N.J.A.C. 14:18-15.4(a)1. The municipality shall assume all responsibility for the management, operations and programming of the PEG access channels in accordance with N.J.A.C. 14:18-15.4(a)4.
17. Verizon shall continue to provide equipment and training for municipalities covered by the system-wide franchise without charge, for use in the development of local programming content that can be shown on PEG access channels. Upon request of the Board or Board staff, Verizon shall provide status updates to the Board on its PEG Training and Equipment Program and its current program implementation coordinator, NJEDGE.Net, Verizon shall update the PEG access equipment list in a timely fashion to ensure that individuals and municipalities have real access to the equipment in a non-discriminatory manner.
18. Upon written request of a municipality served by its System-wide Cable Television Franchise, Verizon shall install and maintain, without charge, one service outlet activated for basic cable television service and Internet service to each fire station, public school, police station, public library and any other such building used for municipal purposes, in accordance with N.J.A.C. 14:18-15.5.
19. Pursuant to applicable law, Verizon shall maintain sufficient bond for the faithful performance of all undertakings by the applicant as represented in the application; and shall have sufficient insurance including the Board, all municipalities served and the applicant as insureds, with respect to all liability for any death, personal injury, property

damage or other liability arising out of the applicant's construction and operation of its cable television system.

20. Pursuant to N.J.S.A. 48:5A-28(n), Verizon shall continue to comply with any applicable consumer protection requirements.

This Renewal System-wide Cable Television Franchise is subject to all applicable State and federal laws, the rules and regulations of the Office of Cable Television, and any such lawful terms, conditions and limitations as currently exist or may hereafter be attached to the exercise of the privileges granted herein. Verizon shall adhere to the applicable operating standards set forth by the Federal Communications Commission's rules and regulations, 47 C.F.R. §76.1 et seq. including but not limited to, the technical standards 47 C.F.R. §76.601 through §76.630. Any modifications to the provisions thereof shall be incorporated into this Renewal System-wide Cable Television Franchise.

Failure to comply with all applicable laws, rules, regulations and orders of the Board or the Office of Cable Television and/or the terms, conditions and limitations set forth herein may constitute sufficient grounds for the suspension or revocation of this Renewal System-wide Cable Television Franchise.

This Renewal System-wide Cable Television Franchise is issued on the representation that the statements contained in the Petitioner's applications are true, and the undertakings therein contained shall be adhered to and be enforceable unless specific waiver is granted by the Board or the Office of Cable Television pursuant to the authority contained in N.J.S.A. 48:5A-1 et seq.


Verizon's Renewal System-wide Cable Television Franchise shall expire on December 18, 2020.

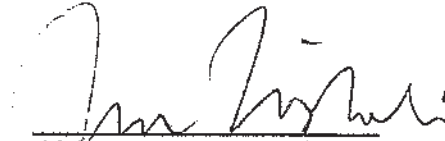
This Order shall be effective on February 7, 2014.

DATED: 1/30/14

BOARD OF PUBLIC UTILITIES
BY:


DIANNE SOLOMON
PRESIDENT


JEANNE M. FOX
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER

ATTEST: 
KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public
Utilities



**IN THE MATTER OF THE APPLICATION OF VERIZON NEW JERSEY, INC. FOR
RENEWAL OF A SYSTEM-WIDE CABLE TELEVISION FRANCHISE**

DOCKET NO. CE13080756

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**IN THE MATTER OF THE APPLICATION OF VERIZON NEW JERSEY, INC. FOR
RENEWAL OF A SYSTEM-WIDE CABLE TELEVISION FRANCHISE**

**SYSTEM-WIDE CABLE TELEVISION FRANCHISE RENEWAL
DOCKET NO. CE13080756**

**EXHIBIT "I"
MUNICIPALITIES WHERE VERIZON IS AUTHORIZED TO PROVIDE SERVICE**

	Municipality	County		Municipality	County
1	Aberdeen Borough	Monmouth	37	Brielle Borough	Monmouth
2	Allendale Borough	Bergen	38	Brooklawn Borough	Camden
3	Allenhurst Borough	Monmouth	39	Burlington City	Burlington
4	Allentown Borough	Monmouth	40	Burlington Township	Burlington
5	Alloway Township	Salem	41	Caldwell Borough	Essex
6	Alpine Borough	Bergen	42	Camden City	Camden
7	Asbury Park City	Monmouth	43	Carlstadt Borough	Bergen
8	Atlantic Highlands Borough	Monmouth	44	Cedar Grove Township	Essex
9	Audubon Borough	Camden	45	Chatham Borough	Morris
10	Audubon Park Borough	Camden	46	Chatham Township	Morris
11	Avon-by-the-Sea Borough	Monmouth	47	Cherry Hill Township	Camden
12	Barrington Borough	Camden	48	Chesilhurst Borough	Camden
13	Bay Head Borough	Ocean	49	Chester Township	Morris
14	Bayonne City	Hudson	50	Chesterfield Borough	Burlington
15	Bedminster Township	Somerset	51	Clark Township	Union
16	Belleville Township	Essex	52	Clayton Borough	Gloucester
17	Bellmawr Borough	Camden	53	Cliffside Park Borough	Bergen
18	Belmar Borough	Monmouth	54	Clifton City	Passaic
19	Bergenfield Borough	Bergen	55	Closter Borough	Bergen
20	Berkeley Heights Township	Union	56	Collingswood Borough	Camden
21	Berlin Borough	Camden	57	Colts Neck Township	Monmouth
22	Berlin Township	Camden	58	Cranbury Township	Middlesex
23	Bernards Township	Somerset	59	Cranford Township	Union
24	Bernardsville Borough	Somerset	60	Cresskill Borough	Bergen
25	Bloomfield Township	Essex	61	Deal Borough	Monmouth
26	Bloomington Borough	Passaic	62	Deerfield Township	Cumberland
27	Bogota Borough	Bergen	63	Delanco Township	Burlington
28	Boonton Township	Morris	64	Demarest Borough	Bergen
29	Bordentown City	Burlington	65	Denville Township	Morris
30	Bordentown Township	Burlington	66	Deptford Township	Gloucester
31	Bound Brook Borough	Somerset	67	Dover Town	Morris
32	Bradley Beach Borough	Monmouth	68	Dumont Borough	Bergen
33	Branchburg Township	Somerset	69	Dunellen Borough	Middlesex
34	Brick Township	Ocean	70	East Amwell Township	Hunterdon
35	Bridgeton City	Cumberland	71	East Brunswick Township	Middlesex
36	Bridgewater Township	Somerset	72	East Greenwich Township	Gloucester

	Municipality	County		Municipality	County
73	East Hanover Township	Morris	120	Greenwich Township	Gloucester
74	East Newark Borough	Hudson	121	Guttenberg Town	Hudson
75	East Orange City	Essex	122	Hackensack City	Bergen
76	East Rutherford Borough	Bergen	123	Haddon Heights Borough	Camden
77	East Windsor Township	Mercer	124	Haddon Township	Camden
78	Eastampton Township	Burlington	125	Haddonfield Borough	Camden
79	Eatontown Borough	Monmouth	126	Hainesport Township	Burlington
80	Edgewater Borough	Bergen	127	Haledon Borough	Passaic
81	Edgewater Park Borough	Burlington	128	Hamilton Township	Atlantic
82	Edison Township	Middlesex	129	Hamilton Township	Mercer
83	Egg Harbor City	Atlantic	130	Hanover Township	Morris
84	Elizabeth City	Union	131	Harding Township	Morris
85	Elk Township	Gloucester	132	Harrington Park Borough	Bergen
86	Elmwood Park Borough	Bergen	133	Harrison Town	Hudson
87	Elsinboro Township	Salem	134	Harrison Township	Gloucester
88	Emerson Borough	Bergen	135	Hasbrouck Heights Borough	Bergen
89	Englewood City	Bergen	136	Haworth Borough	Bergen
90	Englewood Cliffs Borough	Bergen	137	Hawthorne Borough	Passaic
91	Englishtown Borough	Monmouth	138	Hazlet Township	Monmouth
92	Essex Fells Borough	Essex	139	Helmetta Borough	Middlesex
93	Evesham Township	Burlington	140	Highland Park Borough	Middlesex
94	Ewing Township	Mercer	141	Highlands Borough	Monmouth
95	Fair Haven Borough	Monmouth	142	Hightstown Borough	Mercer
96	Fair Lawn Borough	Bergen	143	Hillsborough Township	Somerset
97	Fairfield Township	Essex	144	Hillsdale Borough	Bergen
98	Fairview Borough	Bergen	145	Hillside Township	Essex
99	Fanwood Borough	Union	146	Hoboken City	Hudson
100	Far Hills Borough	Somerset	147	Ho-Ho-Kus Borough	Bergen
101	Farmingdale Borough	Monmouth	148	Holmdel Township	Monmouth
102	Fieldsboro Borough	Burlington	149	Hopewell Borough	Mercer
103	Florence Township	Burlington	150	Hopewell Township	Cumberland
104	Florham Park Borough	Morris	151	Hopewell Township	Mercer
105	Fort Lee Borough	Bergen	152	Howell Township	Monmouth
106	Franklin Lakes Borough	Bergen	153	Interlaken Borough	Monmouth
107	Franklin Township	Gloucester	154	Irvington Township	Essex
108	Franklin Township	Somerset	155	Island Heights Borough	Ocean
109	Freehold Borough	Monmouth	156	Jackson Township	Ocean
110	Freehold Township	Monmouth	157	Jamesburg Borough	Middlesex
111	Garfield City	Bergen	158	Jefferson Township	Morris
112	Garwood Borough	Union	159	Jersey City	Hudson
113	Glassboro Borough	Gloucester	160	Keansburg Borough	Monmouth
114	Glen Ridge Borough	Essex	161	Kearny Town	Hudson
115	Glen Rock Borough	Bergen	162	Kenilworth Borough	Union
116	Gloucester City	Camden	163	Keyport Borough	Monmouth
117	Gloucester Township	Camden	164	Lake Como Borough	Monmouth
118	Green Brook Township	Somerset	165	Lakehurst Borough	Ocean
119	Greenwich Township	Cumberland	166	Lakewood Township	Ocean

	Municipality	County		Municipality	County
167	Lawnside Borough	Camden	214	Montville Township	Morris
168	Lawrence Township	Mercer	215	Moonachie Borough	Bergen
169	Leonia Borough	Bergen	216	Morris Plains Borough	Morris
170	Lincoln Park Borough	Morris	217	Morris Township	Morris
171	Linden City	Union	218	Morristown Town	Morris
172	Little Falls Township	Passaic	219	Mount Ephraim Borough	Camden
173	Little Ferry Borough	Bergen	220	Mount Holly Township	Burlington
174	Little Silver Borough	Monmouth	221	Mount Laurel Township	Burlington
175	Livingston Township	Essex	222	Mount Olive Township	Morris
176	Loch Arbour Village	Monmouth	223	Mountain Lakes Borough	Morris
177	Lodi Borough	Bergen	224	Mountainside Borough	Union
178	Long Branch City	Monmouth	225	National Park Borough	Gloucester
179	Long Hill Township	Morris	226	Neptune City Borough	Monmouth
180	Lumberton Township	Burlington	227	Neptune Township	Monmouth
181	Lyndhurst Township	Bergen	228	New Brunswick City	Middlesex
182	Madison Borough	Morris	229	New Hanover Township	Burlington
183	Mahwah Township	Bergen	230	New Milford Borough	Bergen
184	Manalapan Township	Monmouth	231	New Providence Borough	Union
185	Manasquan Borough	Monmouth	232	Newark City	Essex
186	Manchester Township	Ocean	233	North Arlington Borough	Bergen
187	Mansfield Township	Burlington	234	North Bergen Township	Hudson
188	Mantoloking Borough	Ocean	235	North Brunswick Township	Middlesex
189	Mantua Township	Gloucester	236	North Caldwell Borough	Essex
190	Manville Borough	Somerset	237	North Haledon Borough	Bergen
191	Maple Shade Township	Burlington	238	North Hanover Township	Burlington
192	Maplewood Township	Essex	239	North Plainfield Borough	Somerset
193	Marlboro Township	Monmouth	240	Northvale Borough	Bergen
194	Matawan Borough	Monmouth	241	Norwood Borough	Bergen
195	Maywood Borough	Bergen	242	Nutley Township	Essex
196	Medford Lakes Borough	Burlington	243	Oakland Borough	Bergen
197	Medford Township	Burlington	244	Oaklyn Borough	Camden
198	Mendham Borough	Morris	245	Ocean Township	Monmouth
199	Mendham Township	Morris	246	Oceanport Borough	Monmouth
200	Merchantville Borough	Camden	247	Old Bridge Township	Middlesex
201	Middle Township	Cape May	248	Old Tappan Borough	Bergen
202	Middlesex Borough	Middlesex	249	Oradell Borough	Bergen
203	Middletown Township	Monmouth	250	Orange City	Essex
204	Midland Park Borough	Bergen	251	Palisades Park Borough	Bergen
205	Millburn Township	Essex	252	Paramus Borough	Bergen
206	Millstone Township	Monmouth	253	Park Ridge Borough	Bergen
207	Mine Hill Township	Morris	254	Parsippany-Troy Hills Township	Morris
208	Monmouth Beach Borough	Monmouth	255	Passaic City	Passaic
209	Monroe Township	Gloucester	256	Paterson City	Passaic
210	Monroe Township	Middlesex	257	Paulsboro Borough	Gloucester
211	Montclair Township	Essex	258	Peapack & Gladstone	Somerset
212	Montgomery Township	Somerset			
213	Montvale Borough	Bergen			

	Municipality	County		Municipality	County
	Borough		305	Sea Girt Borough	Monmouth
259	Pemberton Township	Burlington	306	Secaucus Town	Hudson
260	Pennington Borough	Mercer	307	Shamong Township	Burlington
261	Pennsauken Township	Camden	308	Shiloh Borough	Cumberland
262	Perth Amboy City	Middlesex	309	Shrewsbury Borough	Monmouth
263	Pine Hill Borough	Camden	310	Shrewsbury Township	Monmouth
264	Piscataway Township	Middlesex	311	Somerville Borough	Somerset
265	Pitman Borough	Gloucester	312	South Amboy City	Middlesex
266	Plainfield City	Union	313	South Bound Brook Borough	Somerset
267	Plainsboro Township	Middlesex	314	South Brunswick Township	Middlesex
268	Pleasantville City	Atlantic	315	South Hackensack Township	Bergen
269	Point Pleasant Beach Borough	Ocean	316	South Orange Village Township	Essex
270	Point Pleasant Borough	Ocean	317	South Plainfield Borough	Middlesex
271	Princeton	Mercer	318	Southampton Township	Burlington
272	Prospect Park Borough	Passaic	319	Spotswood Borough	Middlesex
273	Quinton Township	Salem	320	Spring Lake Borough	Monmouth
274	Ramsey Borough	Bergen	321	Spring Lake Heights Borough	Monmouth
275	Randolph Township	Morris	322	Springfield Township	Burlington
276	Raritan Borough	Somerset	323	Springfield Township	Union
277	Readington Township	Hunterdon	324	Stow Creek Township	Cumberland
278	Red Bank Borough	Monmouth	325	Summit City	Union
279	Ridgefield Borough	Bergen	326	Tabernacle Township	Burlington
280	Ridgefield Park Village	Bergen	327	Tavistock Borough	Camden
281	Ridgewood Village	Bergen	328	Teaneck Township	Bergen
282	River Edge Borough	Bergen	329	Tenafly Borough	Bergen
283	River Vale Township	Bergen	330	Teterboro Borough	Bergen
284	Riverside Township	Burlington	331	Tinton Falls Borough	Monmouth
285	Robbinsville Township	Mercer	332	Toms River Township	Ocean
286	Rochelle Park Township	Bergen	333	Totowa Borough	Bergen
287	Rockaway Borough	Morris	334	Trenton City	Mercer
288	Rockaway Township	Morris	335	Union Beach Borough	Monmouth
289	Rockleigh Borough	Bergen	336	Union City	Hudson
290	Rocky Hill Borough	Somerset	337	Union Township	Union
291	Roosevelt Borough	Monmouth	338	Upper Deerfield Township	Cumberland
292	Roseland Borough	Essex	339	Upper Freehold Township	Monmouth
293	Roselle Borough	Union	340	Upper Saddle River Borough	Bergen
294	Roselle Park Borough	Union	341	Verona Township	Essex
295	Roxbury Township	Morris	342	Victory Gardens Borough	Morris
296	Rumson Borough	Monmouth	343	Vineland City	Cumberland
297	Runnemede Borough	Camden	344	Voorhees Township	Camden
298	Rutherford Borough	Bergen	345	Waldwick Borough	Bergen
299	Saddle Brook Township	Bergen			
300	Saddle River Borough	Bergen			
301	Salem City	Salem			
302	Sayreville Borough	Middlesex			
303	Scotch Plains Township	Union			
304	Sea Bright Borough	Monmouth			

	Municipality	County
346	Wall Township	Monmouth
347	Wallington Borough	Bergen
348	Warren Township	Somerset
349	Washington Township	Bergen
350	Washington Township	Gloucester
351	Washington Township	Morris
352	Watchung Borough	Somerset
353	Waterford Township	Camden
354	Wayne Township	Passaic
355	Weehawken Town	Hudson
356	West Amwell Township	Hunterdon
357	West Caldwell Township	Essex
358	West Deptford Township	Gloucester
359	West Long Branch Borough	Monmouth
360	West New York Town	Hudson
361	West Orange Township	Essex
362	West Windsor Township	Mercer

	Municipality	County
363	Westampton Township	Burlington
364	Westfield Town	Union
365	Westwood Borough	Bergen
366	Weymouth Township	Atlantic
367	Wharton Borough	Morris
368	Willingboro Township	Burlington
369	Winfield Township	Union
370	Winslow Township	Camden
371	Woodbridge Township	Middlesex
372	Woodbury City	Gloucester
373	Woodbury Heights Borough	Gloucester
374	Woodcliff Lake Borough	Bergen
375	Woodland Park Borough	Passaic
376	Woodlynne Borough	Camden
377	Wood-Ridge Borough	Bergen
378	Wrightstown Borough	Burlington
379	Wyckoff Township	Bergen

Exhibit 6

New Jersey BPU Orders Certifying Verizon
Passing 60% of Homes in Communities in
Bergen System-Wide Franchise Area



STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.nj.gov/bpu/

CABLE TELEVISION

IN THE MATTER OF VERIZON NEW JERSEY, INC.)
CERTIFICATION OF CAPABILITY TO PROVIDE)
CABLE TELEVISION SERVICE TO 60 PERCENT OF)
HOUSEHOLDS IN 19 DESIGNATED MUNICIPALITIES)

ORDER

DOCKET NO. CO08080567

(SERVICE LIST ATTACHED)

BY THE BOARD

On August 20, 2008, Verizon New Jersey, Inc. (Verizon) filed a petition with the Board of Public Utilities (Board), pursuant to N.J.S.A. 48:5A-30(d) and N.J.A.C. 14:18-15.7, seeking approval of its certification that it is capable of providing cable television service to at least 60 percent of the households in 19 municipalities.¹ Verizon was granted a systemwide franchise by the Board on December 18, 2006, to provide cable television service to 316 municipalities² pursuant to the newly enacted amendments to the State Cable Television Act, N.J.S.A. 48:5A-1 et seq. (the "Act").³ Through subsequent filings as provided in N.J.A.C. 14:18-14.14(a), Verizon is currently authorized to provide service to 359 municipalities. The Act, as amended, allows for the granting of competitive systemwide franchises for providers of cable television service by the Board. Prior to the passage of the amendments to the Act, cable television providers negotiated with each municipality separately for the grant of municipal consent, and then petitioned the Board for a certificate of approval to provide service within that municipality. Since the passage of the amendments to the Act, cable television companies now have a choice of continuing under the municipal consent based franchise system or proceeding under the systemwide franchise option.

¹The 19 municipalities included in Verizon's application are Borough of Belmar, Borough of Bernardsville, Borough of Essex Fells, Township of Ewing, Borough of Fanwood, Borough of Fieldsboro, City of Garfield, Township of Harding, Borough of Interlaken, Township of Morris, Township of Neptune, Township of River Vale, Township of South Hackensack, City of Summit, City of Trenton, Borough of Union Beach, Township of Union, Township of West Caldwell and Borough of Westwood.

²Order, In the Matter of the Application of Verizon New Jersey, Inc. for a Systemwide Cable Television Franchise, Docket No. CE06110768 (December 18, 2006).

³L.2006, c.83, signed into law August 4, 2006.

In accordance with N.J.S.A. 48:5A-30(g), the Board must either approve or deny the certification filed by Verizon within 45 days from its filing. By letter dated September 23, 2008, from Richard A. Chapkis, Vice President and General Counsel for Verizon, Verizon agreed to waive the 45 day timeframe for action by the Board.

Each cable television company operating in the State of New Jersey must pay franchise fees to each municipality in which it provides service. Currently, an incumbent cable operator operating under a municipal consent based franchise pays franchise fees each year in the amount of two percent of the gross revenues from all recurring charges in the nature of subscription fees paid by subscribers within the municipality for its cable television reception service, as such term is defined by N.J.S.A. 48:5A-3(e). The Act, as amended, requires that the holder of a systemwide cable television franchise pay to each municipality served each year a sum equal to 3.5 percent of gross revenues derived from cable television service charges or fees paid by subscribers in the municipality to the systemwide cable television franchisee. N.J.S.A. 48:5A-30(d). In addition, an amount not to exceed one-half of one percent of those gross revenues must be remitted to the State Treasurer for a "CATV Universal Access Fund" to offset basic cable television service rates for seniors and disabled persons. N.J.S.A. 48:5A-30(d). N.J.S.A. 48:5A-30(d) further provides that once a systemwide cable television franchise holder certifies that it is capable of providing service to at least 60 percent of the households within a municipality that are served by an incumbent cable television provider, and the Board approves that certification, the existing cable television company must also pay the increased franchise fee.

In conjunction with this statutory requirement, and in support of its petition, Verizon filed an Affidavit of Allison Cole-Best, Director, Video Network Services, explaining the methodology used by Verizon in calculating the percentage of households where Verizon is capable of providing cable television service. The affidavit states that Verizon first identified the number of residential addresses passed by Verizon's network and served by Verizon's cable television facilities, which were validated as capable of receiving Verizon's services (FiOS). Because the Act, as amended, requires the franchise operator to identify the percentage of households rather than addresses, Verizon performed additional calculations to convert the data on validated addresses to reflect household data by utilizing information from the 2000 US Census and mid-2007 estimates from that data provided by a company called ESRI, Inc. Verizon projected the number of occupied households as of July 31, 2008 by comparing the number of households in 2000 to those in mid-2007 as estimated by ESRI, and adjusting that trend forward to the 2008 date. Verizon also multiplied its FiOS validated residential address counts in the filing by the ESRI estimated occupancy rates for 2007 to estimate the households in each town that were capable of being provided FiOS service. Verizon then divided these projected household numbers by the total number of estimated households in each municipality as of July 31, 2008 as calculated in the first step. Verizon provided a list of the final calculations, which demonstrated the percentage of occupied households where Verizon is capable of providing cable television service, ranging from a minimum of 65.45 percent in the City of Summit to a maximum of 82.39 percent availability in the Township of South Hackensack.⁴

⁴See Appendix "I" attached.

Staff has reviewed the petition and supporting documentation. As part of its analysis, Staff performed its own calculations to project the ESRI supplied mid-2007 data forward to July 31, 2008 and estimate the number of households within each municipality for the purpose of converting Verizon's FiOS validated residential address data to households capable of receiving FiOS service. In its review, Staff also reviewed several aspects of Verizon's service capabilities. This review included an analysis of whether Verizon's central offices/wire centers serving the subject municipalities had been converted to Video Serving Offices (VSOs) which are FiOS capable, as well as an analysis of Verizon's capability of serving residential households of all types, including one to four family structures and multi-dwelling unit (MDU) structures located in underground utility service areas within a particular municipality.

Furthermore, staff requested additional data from Verizon that the MDUs in the affected municipalities (in both aerial and underground service areas) were not just passed by Verizon's cable television service, but capable of being provided cable television service if a resident requested it. Staff's review of MDU service capability also focused on important issues highlighted in the Governor's Executive Order No. 25 (2006), which supplemented anti-redlining elements of the Act, as amended. Verizon clarified in its discovery responses that no MDUs or any units within a particular MDU were included unless they could be provided service at the time they were included in the certification. Verizon represented that only households within MDUs that were able to be served upon request of a resident were counted towards the 60 percent certification. At staff's request, Verizon also provided a current status of additional MDUs which are not currently capable of being provided FiOS service, but where access agreements have been successfully negotiated. In each case, additional survey, engineering, or design work is underway, but not yet complete.

Based on Staff's recommendation, and the Board's review of the information provided in support of the petition, the Board accepts Verizon's certification that is capable of providing service to at least 60 percent of the households in municipalities currently served by a cable television company that operates under a municipal consent in each of the 19 listed municipalities, and HEREBY APPROVES Verizon's certification. Attached as Appendix "I" is a list of the 19 municipalities where Verizon is capable of providing cable service to more than 60 percent of the households in the municipality that is currently provided with cable service by another cable company, and the percentage of FiOS availability to those households.

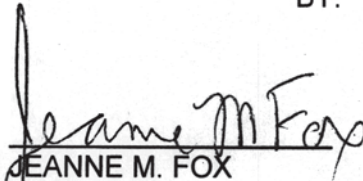
Each cable television operator currently operating in the 19 municipalities listed in Appendix "I" approved under Verizon's certification is HEREBY REQUIRED to pay to each municipality each year a sum equal to 3.5 percent of gross revenues, as such term is defined by N.J.S.A. 48:5A-3(x), derived from cable television service charges or fees paid by subscribers in the municipality to the cable television franchisee, and an additional amount not to exceed one-half of one percent of those gross revenues to the State Treasurer for a "CATV Universal Access Fund" to offset basic cable television service rates for low income (P.A.A.D. eligible) seniors and disabled persons.


Cable television operators may begin implementation of the increased franchise fee collection from their subscribers up to, but no later than, 90 days following the date of this Board Order approving the certification, pursuant to N.J.A.C. 14:18-15.7(d).

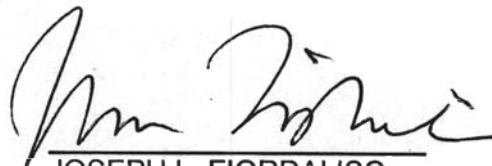
Cable television operators shall notify each municipality, Rate Counsel and the Office of Cable Television in writing of the effective date of the increased franchise fee.

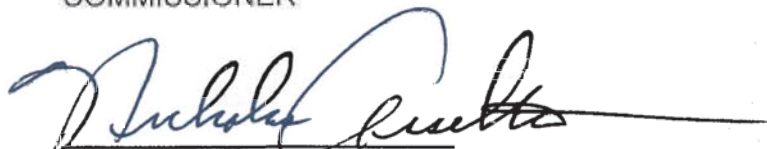
DATED: 11/7/08

BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER

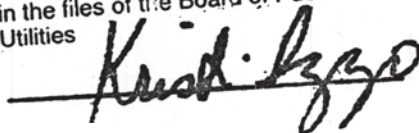

NICHOLAS ASSELTA
COMMISSIONER


ELIZABETH RANDALL
COMMISSIONER

ATTEST:


KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public
Utilities



APPENDIX "I"

Municipality	County	Percentage
Belmar Borough	Monmouth	70.26%
Bernardsville Borough	Somerset	72.89%
Essex Fells Borough	Essex	76.78%
Ewing Township	Mercer	78.48%
Fanwood Borough	Union	67.84%
Fieldsboro Borough	Burlington	67.68%
Garfield City	Bergen	73.70%
Harding Township	Morris	66.44%
Interlaken Borough	Monmouth	74.55%
Morris Township	Morris	65.64%
Neptune Township	Monmouth	66.13%
River Vale Township	Bergen	66.00%
South Hackensack Township	Bergen	82.39%
Summit City	Union	65.45%
Trenton City	Mercer	71.20%
Union Beach Borough	Monmouth	77.44%
Union Township	Union	71.75%
West Caldwell Township	Essex	65.60%
Westwood Borough	Bergen	67.30%

SERVICE LIST

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STATE OF NEW JERSEY

Board of Public Utilities

Two Gateway Center

Newark, NJ 07102

www.nj.gov/bpu/

CABLE TELEVISION

IN THE MATTER OF VERIZON NEW JERSEY, INC.)	ORDER
CERTIFICATION OF CAPABILITY TO PROVIDE)	
CABLE TELEVISION SERVICE TO 60 PERCENT OF)	
HOUSEHOLDS IN 19 DESIGNATED MUNICIPALITIES)	BPU DOCKET NO. CO08110970

(SERVICE LIST ATTACHED)

BY THE BOARD

On November 6, 2008, Verizon New Jersey, Inc. (Verizon) filed a petition with the Board of Public Utilities (Board), pursuant to N.J.S.A. 48:5A-30(d) and N.J.A.C. 14:18-15.7, seeking approval of its certification that it is capable of providing cable television service to at least 60 percent of the households in 19 municipalities.¹ Verizon was granted a systemwide franchise by the Board on December 18, 2006, to provide cable television service to 316 municipalities² pursuant to the newly enacted amendments to the State Cable Television Act, N.J.S.A. 48:5A-1 et seq. (the "Act").³ Through subsequent filings as provided in N.J.A.C. 14:18-14.14(a), Verizon is currently authorized to provide service to 359 municipalities. The Act, as amended, allows for the granting of competitive systemwide franchises for providers of cable television service by the Board. Prior to the passage of the amendments to the Act, cable television providers negotiated with each municipality separately for the grant of municipal consent, and then petitioned the Board for a certificate of approval to provide service within that municipality. Since the passage of the amendments to the Act, cable television companies now have a choice of continuing under the municipal consent based franchise system or proceeding under the systemwide franchise option.

¹The 19 municipalities included in Verizon's application are Township of Cedar Grove, Township of East Hanover, Borough of Englishtown, Township of Fairfield (Essex County), Borough of Freehold, Township of Hamilton (Mercer County), Township of Hopewell (Mercer County), Village of Loch Arbour, Borough of Madison, Borough of Montvale, Town of Morristown, Borough of Pennington, Borough of Ramsey, Borough of Red Bank, Township of Rockaway, Borough of Roosevelt, Borough of Saddle River, Township of West Orange and City of Woodbury.

²Order, In the Matter of the Application of Verizon New Jersey, Inc. for a Systemwide Cable Television Franchise, Docket No. CE06110768 (December 18, 2006).

³L.2006, c.83, signed into law August 4, 2006.

Each cable television company operating in the State of New Jersey must pay franchise fees to each municipality in which it provides service. Currently, an incumbent cable operator operating under a municipal consent based franchise pays franchise fees each year in the amount of two percent of the gross revenues from all recurring charges in the nature of subscription fees paid by subscribers within the municipality for its cable television reception service, as such term is defined by N.J.S.A. 48:5A-3(e). The Act, as amended, requires that the holder of a systemwide cable television franchise pay to each municipality served each year a sum equal to 3.5 percent of gross revenues derived from cable television service charges or fees paid by subscribers in the municipality to the systemwide cable television franchisee. N.J.S.A. 48:5A-30(d). In addition, an amount not to exceed one-half of one percent of those gross revenues must be remitted to the State Treasurer for a "CATV Universal Access Fund" to offset basic cable television service rates for seniors and disabled persons. N.J.S.A. 48:5A-30(d). N.J.S.A. 48:5A-30(d) further provides that once a systemwide cable television franchise holder certifies that it is capable of providing service to at least 60 percent of the households within a municipality that are served by an incumbent cable television provider, and the Board approves that certification, the existing cable television company must also pay the increased franchise fee.

In conjunction with this statutory requirement, and in support of its petition, Verizon filed an Affidavit of Allison Cole-Best, Director, Video Network Services, explaining the methodology used by Verizon in calculating the percentage of households where Verizon is capable of providing cable television service. The affidavit states that Verizon first identified the number of residential addresses passed by Verizon's network and served by Verizon's cable television facilities, which were validated as capable of receiving Verizon's services (FiOS). Because the Act, as amended, requires the franchise operator to identify the percentage of households rather than addresses, Verizon performed additional calculations to convert the data on validated addresses to reflect household data by utilizing information from the 2000 US Census and mid-2007 estimates from that data provided by a company called ESRI, Inc. Verizon projected the number of occupied households as of September 30, 2008 by comparing the number of households in 2000 to those in mid-2007 as estimated by ESRI, and adjusting that trend forward to the 2008 date. Verizon also multiplied its FiOS validated residential address counts in the filing by the ESRI estimated occupancy rates for 2007 to estimate the households in each town that were capable of being provided FiOS service. Verizon then divided these projected household numbers by the total number of estimated households in each municipality as of September 30, 2008 as calculated in the first step. Verizon provided a list of the final calculations, which demonstrated the percentage of occupied households where Verizon is capable of providing cable television service, ranging from a minimum of 65 percent in the Borough of Red Bank to a maximum of 79.41 percent availability in the Borough of Pennington.⁴

Staff has reviewed the petition and supporting documentation. As part of its analysis, Staff performed its own calculations to project the ESRI supplied mid-2007 data forward to September 30, 2008 and estimate the number of households within each municipality for the purpose of converting Verizon's FiOS validated residential address data to households capable of receiving FiOS service. In its review, Staff also reviewed several aspects of Verizon's service capabilities. This review included an analysis of whether Verizon's central offices/wire centers serving the subject municipalities had been converted to Video Serving Offices (VSOs) which are FiOS capable, as well as an analysis of Verizon's capability of serving residential households of all types, including one to four family structures located in underground utility

⁴See Appendix "I" attached.

service areas within a particular municipality and multiple-dwelling unit (MDU) structures located in both aerial and underground utility service areas within a particular municipality.

Furthermore, staff requested additional data from Verizon that the MDUs in the affected municipalities were not just passed by Verizon's cable television service, but capable of being provided cable television service if a resident requested it. Staff's review of MDU service capability also focused on important issues highlighted in the Governor's Executive Order No. 25 (2006), which supplemented anti-redlining elements of the Act, as amended. Verizon clarified in its discovery responses that no MDUs or any units within a particular MDU were included unless they could be provided service at the time they were included in the certification. Verizon represented that only households within MDUs that were able to be served upon request of a resident were counted towards the 60 percent certification. At staff's request, Verizon also provided a current status of additional MDUs which are not currently capable of being provided FiOS service, but where access agreements have been successfully negotiated. In each case, additional survey, engineering, or design work is underway, but not yet complete.

Based on Staff's recommendation, and the Board's review of the information provided in support of the petition, the Board accepts Verizon's certification that it is capable of providing service to at least 60 percent of the households in municipalities currently served by a cable television company that operates under a municipal consent in each of the 19 listed municipalities, and HEREBY APPROVES Verizon's certification. Attached as Appendix "I" is a list of the 19 municipalities where Verizon is capable of providing cable service to more than 60 percent of the households in the municipality that is currently provided with cable service by another cable company, and the percentage of FiOS availability to those households.


Each cable television operator currently operating in the 19 municipalities listed in Appendix "I" approved under Verizon's certification is HEREBY REQUIRED to pay to each municipality each year a sum equal to 3.5 percent of gross revenues, as such term is defined by N.J.S.A. 48:5A-3(x), derived from cable television service charges or fees paid by subscribers in the municipality to the cable television franchisee, and an additional amount not to exceed one-half of one percent of those gross revenues to the State Treasurer for a "CATV Universal Access Fund" to offset basic cable television service rates for low income (P.A.A.D. eligible) seniors and disabled persons.

Cable television operators may begin implementation of the increased franchise fee collection from their subscribers up to, but no later than, 90 days following the date of this Board Order approving the certification, pursuant to N.J.A.C. 14:18-15.7(d).

Cable television operators shall notify each municipality, Rate Counsel and the Office of Cable Television in writing of the effective date of the increased franchise fee.

DATED: 12/18/08

BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER

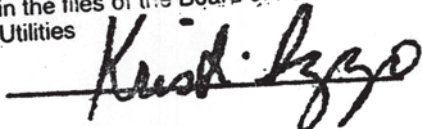

NICHOLAS ASSELTA
COMMISSIONER


ELIZABETH RANDALL
COMMISSIONER

ATTEST:


KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public
Utilities



APPENDIX "I"

Municipality	County	Percentage
Cedar Grove Township	Essex	66.62%
East Hanover Township	Morris	71.67%
Englishtown Borough	Monmouth	73.12%
Fairfield Township	Essex	66.68%
Freehold Borough	Monmouth	65.45%
Hamilton Township	Mercer	69.48%
Hopewell Township	Mercer	69.16%
Loch Arbour Village	Monmouth	77.37%
Madison Borough	Morris	70.30%
Montvale Borough	Bergen	68.78%
Morristown Town	Morris	65.68%
Pennington Borough	Mercer	79.41%
Ramsey Borough	Bergen	70.91%
Red Bank Borough	Monmouth	65.00%
Rockaway Township	Morris	65.77%
Roosevelt Borough	Monmouth	69.68%
Saddle River Borough	Bergen	76.40%
West Orange Township	Essex	67.17%
Woodbury City	Gloucester	65.65%

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Agenda Date: 10/3/07
Agenda Item: 3B

State of New Jersey
Board of Public Utilities
Two Gateway Center
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CABLE TELEVISION

IN THE MATTER OF VERIZON NEW JERSEY, INC.)
CERTIFICATION OF CAPABILITY TO PROVIDE.) ORDER
CABLE TELEVISION SERVICE TO 60 PERCENT OF)
HOUSEHOLDS IN DESIGNATED MUNICIPALITIES) BPU DOCKET NO. CO07080627
)

(SERVICE LIST ATTACHED)

BY THE BOARD

On August 27, 2007, Verizon New Jersey, Inc. (Verizon) filed a petition with the Board of Public Utilities (Board) pursuant to N.J.S.A. 48:5A-30d and N.J.A.C. 14:18-15.7 seeking approval of its certification that it is capable of providing cable television service to at least 60 percent of the households in 17 municipalities.¹ Verizon was granted a systemwide franchise by the Board on December 18, 2006, to provide cable television service to 316 municipalities² pursuant to the newly enacted amendments to the State Cable Television Act, N.J.S.A. 48:5A-1 et seq. (Act).³ The Act, as amended, allows for the granting of competitive systemwide franchises for certain providers of cable television service by the Board. Prior to the passage of the amendments to the Act, cable television providers negotiated with each municipality separately for the grant of municipal consent, and then petitioned the Board for a certificate of approval to provide service within that municipality. Since the passage of the amendments to the Act, cable television companies now have a choice of continuing under the municipal consent based franchise system or proceeding under the systemwide franchise option.

¹ The 17 municipalities included in Verizon's application are the Boroughs of Allendale, Fair Lawn, Franklin Lakes, Hightstown, Medford Lakes, Mendham, Morris Plains, Mountainside, Oakland, River Edge, Sea Girt and Wharton and the Townships of Livingston, Maplewood, Mendham, Rochelle Park and Saddle Brook.

² Order, In the Matter of the Application of Verizon New Jersey, Inc. for a Systemwide Cable Television Franchise, Docket No. CE06110768 (December 18, 2006).

³ L. 2006, ch.83, signed into law August 4, 2006.

Each cable television company operating in the State of New Jersey must pay franchise fees to each municipality in which it provides service. Currently, an incumbent cable operator operating under a municipal consent based franchise pays franchise fees each year in the amount of two percent of the gross revenues from all recurring charges in the nature of subscription fees paid by subscribers for its cable television reception service, as such term is defined by N.J.S.A. 48:5A-3e, within the municipality. The Act, as amended, at N.J.S.A. 48:5A-30d requires that the holder of a systemwide cable television franchise pay to each municipality each year a sum equal to 3.5 percent of gross revenues, as such term is defined by N.J.S.A. 48:5A-3x, derived from cable television service charges or fees paid by subscribers in the municipality to the systemwide cable television franchisee, and an additional amount not to exceed one-half of one percent of those gross revenues to the State Treasurer for a "CATV Universal Access Fund" to offset basic cable television service rates for seniors and disabled persons who are eligible for the Pharmaceutical Assistance for the Aged and Disabled ("P.A.A.D."). N.J.S.A. 48:5A-30d further provides that once a systemwide cable television franchise holder certifies that it is capable of providing service to at least 60 percent of the households within a municipality that are served by an incumbent cable television provider, and the Board approves that certification, the existing cable television company must also pay the increased franchise fee.

In support of its petition, Verizon filed an Affidavit of Jeffrey B. Olson, Director, Video Network Services, explaining the methodology used by Verizon in calculating the percentage of households where Verizon is capable of providing cable television service. The affidavit states that Verizon first identified the number of residential addresses passed by Verizon's network and served by Verizon's cable facilities, which were validated as capable of receiving Verizon's services. Since the Act, as amended, requires the franchise operator to identify the percentage of households rather than addresses, Verizon performed additional calculations to convert the data on validated addresses to reflect household data by utilizing information from the 2000 census and 2005 estimates from 2000 census data provided by a company called ESRI, Inc. Verizon determined the percentage of occupied households by comparing the number of housing units to the actual number of households within each municipality, and then multiplied the percentage of households by the number of validated addresses to determine the number of households in each municipality where Verizon's cable service is available. The number of households capable of receiving Verizon's cable service was divided by the total number of households in the municipality. Verizon provided a list of the final calculations, which demonstrated the percentage of occupied households where Verizon is capable of providing cable television service, ranging from a minimum of 61 percent to a maximum of 75 percent availability.⁴

Staff reviewed the petition and supporting documentation. As part of its analysis, Staff calculated adjustments to Verizon's estimated occupied households to reflect 2007 data so that both the number of households within the municipality and those where Verizon is capable of providing service would reflect the same period. In its review, Staff also reviewed Verizon's capabilities of serving multi-dwelling unit (MDU) households within a

⁴ See Appendix "I" attached.

particular municipality, and requested additional data from Verizon that the MDUs in the affected municipalities were not just passed by Verizon's cable television service, but capable of being provided cable television service if a resident requested it. Staff's review of MDU service capability also focused on important issues highlighted in the Governor's Executive Order No. 25 (2006), to supplement anti-redlining elements of the Act, as amended. Verizon clarified in its discovery responses that no MDUs or any units within a particular MDU were included unless they were capable of being provided service at the time they were included in the certification. Verizon provided information that only households within MDUs that were able to be served upon request of a resident were counted towards the 60 percent certification.

Based on Staff's recommendation, and the Board's review of the information provided in support of the petition, the Board FINDS that Verizon is capable of providing service to at least 60 percent of the households currently served by a cable television company that operates under a municipal consent in each of the 17 municipalities, and hereby APPROVES Verizon's certification. Attached as Appendix "I" is a list of the 17 municipalities where Verizon is capable of providing cable service to more than 60 percent of the households currently provided with cable service by another cable company, and the percentages of those households.

As previously stated, N.J.S.A. 48:5A-30d requires that once the Board approves the 60 percent certification of a systemwide franchisee, each cable operator currently providing service in the affected municipalities must also pay increased franchise fees. To effectuate the legislative objectives while at the same time recognizing the needs of both cable companies and their subscribers as mandated by N.J.S.A. 48:5A-2, the Board HEREBY DETERMINES that the effective date of this increase shall be the date on which the cable companies first bill their subscribers for this increased fee.

Therefore, beginning no later than 90 days from the date of this Board Order approving Verizon's certification, pursuant to N.J.S.A. 48:5A-30d, each cable operator currently operating in the 17 municipalities listed in Appendix "I" approved under Verizon's certification is HEREBY REQUIRED, to pay to each municipality each year a sum equal to 3.5 percent of gross revenues, as such term is defined by N.J.S.A. 48:5A-3x, derived from cable television service charges or fees paid by subscribers in the municipality to the cable television franchisee, and an additional amount not to exceed one-half of one percent of those gross revenues to the State Treasurer for a "CATV Universal Access Fund" to offset basic cable television service rates for low income (P.A.A.D. eligible) seniors and disabled persons.


Cable operators may begin implementation of the increased franchise fee collection from their subscribers up to, but no later than, 90 days following the date of this Board Order approving the certification.

Cable operators shall notify each municipality, Rate Counsel and the Office of Cable Television in writing of the effective date of the increased franchise fee.


DATED: 10/3/07

BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER


CHRISTINE V. BATOR
COMMISSIONER

ATTEST:


KRISTI IZZO
SECRETARY

APPENDIX "I"

Municipality	County	Percentage of Households capable of receiving service
Allendale Borough	Bergen	65%
Fair Lawn Borough	Bergen	62%
Franklin Lakes Borough	Bergen	65%
Hightstown Borough	Mercer	61%
Livingston Township	Essex	68%
Maplewood Township	Essex	62%
Medford Lakes Borough	Burlington	75%
Mendham Borough	Morris	63%
Mendham Township	Morris	67%
Morris Plains Borough	Morris	61%
Mountainside Borough	Union	67%
Oakland Borough	Bergen	68%
River Edge Borough	Bergen	62%
Rochelle Park Borough	Bergen	67%
Saddle Brook Township	Bergen	61%
Sea Girt Borough	Monmouth	62%
Wharton Borough	Morris	62%

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Agenda Date: 8/1/07
Agenda Item: 3A

State of New Jersey
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CABLE TELEVISION

IN THE MATTER OF VERIZON NEW JERSEY, INC.)
CERTIFICATION OF CAPABILITY TO PROVIDE) ORDER
CABLE TELEVISION SERVICE TO 60 PERCENT OF)
HOUSEHOLDS IN DESIGNATED MUNICIPALITIES) BPU DOCKET NO. CO07060420
)

(SERVICE LIST ATTACHED)

BY THE BOARD

On June 29, 2007, Verizon New Jersey, Inc. (Verizon) filed a petition with the Board of Public Utilities (Board) pursuant to N.J.S.A. 48:5A-30d and N.J.A.C. 14:18-15.7 seeking approval of its certification that it is capable of providing cable television service to at least 60 percent of the households in 18 municipalities.¹ Verizon was granted a systemwide franchise by the Board on December 18, 2006, to provide cable television service to 316 municipalities² pursuant to the newly enacted amendments to the State Cable Television Act, N.J.S.A. 48:5A-1 et seq. (Act).³ The Act, as amended, allows for the granting of competitive systemwide franchises for certain providers of cable television service by the Board. Prior to the passage of the amendments to the Act, cable television providers negotiated with each municipality separately for the grant of municipal consent, and then petitioned the Board for a certificate of approval to provide service within that municipality. Since the passage of the amendments to the Act, cable television companies now have a choice of continuing under the municipal consent based franchise system or proceeding under the systemwide franchise option.

¹ The 18 municipalities included in Verizon's application are the Boroughs of Audubon, Bogota, Emerson, Hillsdale, Hopewell (Mercer), Kenilworth, Little Silver, Midland Park, Paramus, Park Ridge, Rumson and Upper Saddle River; the Townships of Berlin, Cranford, Long Hill, Mine Hill and Washington (Bergen); and the Town of Westfield.

² Order, In the Matter of the Application of Verizon New Jersey, Inc. for a Systemwide Cable Television Franchise, Docket No. CE06110768 (December 18, 2006).

³ L. 2006, ch.83, signed into law August 4, 2006.

Each cable television company operating in the State of New Jersey must pay franchise fees to each municipality in which it provides service. Currently, an incumbent cable operator operating under a municipal consent based franchise pays franchise fees each year in the amount of two percent of the gross revenues from all recurring charges in the nature of subscription fees paid by subscribers for its cable television reception service, as such term is defined by N.J.S.A. 48:5A-3e, within the municipality. The Act, as amended, at N.J.S.A. 48:5A-30d requires that the holder of a systemwide cable television franchise pay to each municipality each year a sum equal to 3.5 percent of gross revenues, as such term is defined by N.J.S.A. 48:5A-3x, derived from cable television service charges or fees paid by subscribers in the municipality to the systemwide cable television franchisee, and an additional amount not to exceed one-half of one percent of those gross revenues to the State Treasurer for a "CATV Universal Access Fund" to offset basic cable television service rates for seniors and disabled persons who are eligible for the Pharmaceutical Assistance for the Aged and Disabled ("P.A.A.D."). N.J.S.A. 48:5A-30d further provides that once a systemwide cable television franchise holder certifies that it is capable of providing service to at least 60 percent of the households within a municipality that are served by an incumbent cable television provider, and the Board approves that certification, the existing cable television company must also pay the increased franchise fee.

In support of its petition, Verizon filed an Affidavit of Jeffrey B. Olson, Director, Video Network Services, explaining the methodology used by Verizon in calculating the percentage of households where Verizon is capable of providing cable television service. The affidavit states that Verizon first identified the number of residential addresses passed by Verizon's network and served by Verizon's cable facilities, which were validated as capable of receiving Verizon's services. Since the Act, as amended, requires the franchise operator to identify the percentage of households rather than addresses, Verizon performed additional calculations to convert the data on validated addresses to reflect household data by utilizing information from the 2000 census and 2005 estimates from 2000 census data provided by a company called ESRI, Inc. Verizon determined the percentage of occupied households by comparing the number of housing units to the actual number of households within each municipality, and then multiplied the percentage of households by the number of validated addresses to determine the number of households in each municipality where Verizon's cable service is available. The number of households capable of receiving Verizon's cable service was divided by the total number of households in the municipality. Verizon provided a list of the final calculations, which demonstrated the percentage of occupied households where Verizon is capable of providing cable television service, ranging from a minimum of 65 percent to a maximum of 77 percent availability.⁴

Staff reviewed the petition and supporting documentation. As part of its analysis, Staff calculated adjustments to Verizon's estimated occupied households to reflect 2007 data so that both the number of households within the municipality and those where Verizon is capable of providing service would reflect the same period. In its review, Staff also reviewed Verizon's capabilities of serving multi-dwelling unit (MDU) households within a

⁴ See Appendix "I" attached.

particular municipality, and requested additional data from Verizon that the MDUs in the affected municipalities were not just passed by Verizon's cable television service, but capable of being provided cable television service if a resident requested it. Staff's review of MDU service capability also focused on important issues highlighted in the Governor's Executive Order No. 25 (2006), to supplement anti-redlining elements of the Act, as amended. Verizon clarified in its discovery responses that no MDUs or any units within a particular MDU were included unless they were capable of being provided service at the time they were included in the certification. Verizon provided information that only households within MDUs that were able to be served upon request of a resident were counted towards the 60 percent certification.

Based on Staff's recommendation, and the Board's review of the information provided in support of the petition, the Board FINDS that Verizon is capable of providing service to at least 60 percent of the households currently served by a cable television company that operates under a municipal consent in each of the 18 municipalities, and hereby APPROVES Verizon's certification. Attached as Appendix "I" is a list of the 18 municipalities where Verizon is capable of providing cable service to more than 60 percent of the households currently provided with cable service by another cable company, and the percentages of those households.

As previously stated, N.J.S.A. 48:5A-30d. requires that once the Board approves the 60 percent certification of a systemwide franchisee, each cable operator currently providing service in the affected municipalities must also pay increased franchise fees. To effectuate the legislative objectives while at the same time recognizing the needs of both cable companies and their subscribers as mandated by N.J.S.A. 48:5A-2, the Board HEREBY DETERMINES that the effective date of this increase shall be the date on which the cable companies first bill their subscribers for this increased fee.

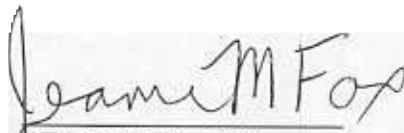
Therefore, beginning no later than 90 days from the date of this Board Order approving Verizon's certification, pursuant to N.J.S.A. 48:5A-30d, each cable operator currently operating in the 18 municipalities listed in Appendix "I" approved under Verizon's certification is HEREBY REQUIRED, to pay to each municipality each year a sum equal to 3.5 percent of gross revenues, as such term is defined by N.J.S.A. 48:5A-3x, derived from cable television service charges or fees paid by subscribers in the municipality to the cable television franchisee, and an additional amount not to exceed one-half of one percent of those gross revenues to the State Treasurer for a "CATV Universal Access Fund" to offset basic cable television service rates for low income (P.A.A.D. eligible) seniors and disabled persons.

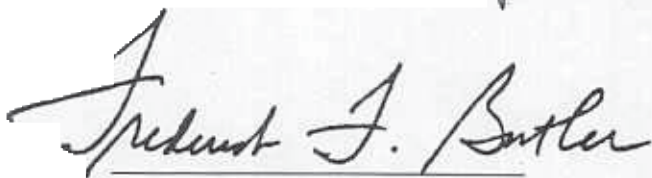
Cable operators may begin implementation of the increased franchise fee collection from their subscribers up to, but no later than, 90 days following the date of this Board Order approving the certification.

Cable operators shall notify each municipality, Rate Counsel and the Office of Cable Television in writing of the effective date of the increased franchise fee.

DATED: 8/1/07

BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER

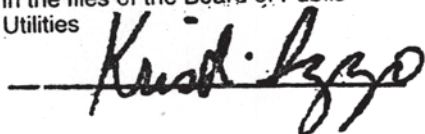

JOSEPH L. FIORDALISO
COMMISSIONER


CHRISTINE V. BATOR
COMMISSIONER

ATTEST:


KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public
Utilities



APPENDIX "I"

Municipality	County	Percentage of Households capable of receiving service
Audubon Borough	Camden	67%
Berlin Township	Camden	65%
Bogota Borough	Bergen	71%
Cranford Township	Union	73%
Emerson Borough	Bergen	77%
Hillsdale Borough	Bergen	70%
Hopewell Borough	Mercer	73%
Kenilworth Borough	Union	68%
Little Silver Borough	Monmouth	68%
Long Hill Township	Morris	68%
Midland Park Borough	Bergen	71%
Mine Hill Township	Morris	66%
Paramus Borough	Bergen	71%
Park Ridge Borough	Bergen	66%
Rumson Borough	Monmouth	68%
Upper Saddle River Borough	Bergen	66%
Washington Township	Bergen	67%
Westfield Town	Union	65%

IN THE MATTER OF VERIZON NEW JERSEY, INC.
CERTIFICATION OF CAPABILITY TO PROVIDE
CABLE TELEVISION SERVICE TO 60 PERCENT OF
HOUSEHOLDS IN DESIGNATED MUNICIPALITIES

BPU DOCKET NO. CO07060420

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Agenda Date: 8/4/10
Agenda Item: IIIA

STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
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www.nj.gov/bpu/

CABLE TELEVISION

IN THE MATTER OF VERIZON NEW JERSEY, INC.)
CERTIFICATION OF CAPABILITY TO PROVIDE)
CABLE TELEVISION SERVICE TO 60 PERCENT OF)
HOUSEHOLDS IN FIVE DESIGNATED MUNICIPALITIES) ORDER
DOCKET NO. CO10060375

Richard Chapkis, Esq., Vice President and General Counsel, for Verizon New Jersey, Inc.

Dennis C. Linken, Esq., Stryker, Tams and Dill, for Comcast and Time Warner

Sidney A. Sayovitz, Esq., Schenck, Price, Smith & King, for Cablevision

BY THE BOARD

On June 1, 2010, Verizon New Jersey, Inc. (Verizon) filed a petition with the Board of Public Utilities (Board), pursuant to N.J.S.A. 48:5A-30(d) and N.J.A.C. 14:18-15.7, seeking approval of its certification that it is capable of providing cable television service to at least 60 percent of the households in five municipalities.¹

Verizon was granted a systemwide franchise by the Board on December 18, 2006, to provide cable television service to 316 municipalities² pursuant to the newly enacted amendments to the State Cable Television Act, N.J.S.A. 48:5A-1 et seq. (the "Act").³ Through subsequent filings as provided in N.J.A.C. 14:18-14.14(a), Verizon is currently authorized to provide service to 369 municipalities. The Act, as amended, allows for the granting of competitive systemwide

¹The five municipalities included in Verizon's application are: Cliffside Park Borough, Guttenberg Town, Old Tappan Borough, Sea Bright Borough and South Plainfield Borough.

²Order, In the Matter of the Application of Verizon New Jersey, Inc. for a Systemwide Cable Television Franchise, Docket No. CE06110768 (December 18, 2006).

³L.2006, c.83, signed into law August 4, 2006.

franchises for providers of cable television service by the Board. Prior to the passage of the amendments to the Act, cable television providers negotiated with each municipality separately for the grant of municipal consent, and then petitioned the Board for a certificate of approval to provide service within that municipality. Since the passage of the amendments to the Act, cable television companies now have a choice of continuing under the municipal consent based franchise system or proceeding under the systemwide franchise option.

Each cable television company operating in the State of New Jersey must pay franchise fees to each municipality in which it provides service. Currently, an incumbent cable operator operating under a municipal consent based franchise pays franchise fees each year in the amount of two percent of the gross revenues from all recurring charges in the nature of subscription fees paid by subscribers within the municipality for its cable television reception service, as such term is defined by N.J.S.A. 48:5A-3(e). The Act, as amended, requires that the holder of a systemwide cable television franchise pay to each municipality served each year a sum equal to 3.5 percent of gross revenues derived from cable television service charges or fees paid by subscribers in the municipality to the systemwide cable television franchisee. N.J.S.A. 48:5A-30(d). In addition, an amount not to exceed one-half of one percent of those gross revenues must be remitted to the State Treasurer for a "CATV Universal Access Fund" to offset basic cable television service rates for seniors and disabled persons. N.J.S.A. 48:5A-30(d). N.J.S.A. 48:5A-30(d) further provides that once a systemwide cable television franchise holder certifies that it is capable of providing service to at least 60 percent of the households within a municipality that is served by an incumbent cable television provider, and the Board approves that certification, the existing cable television company must also pay the increased franchise fee.

It is noted here that N.J.S.A. 48:5A-30(g) requires Board action on a petition for 60 percent certification within 45 days of receipt of the filing. Due to the cancellation of the Board's July agenda meeting, Verizon, by letter dated June 15, 2010, agreed to extend the timeframe for action by the Board to the August 4, 2010 Board agenda meeting.

In conjunction with this statutory requirement, and in support of its petition, Verizon filed an Affidavit of John Gallup, Director, Video Network Services, explaining the methodology used by Verizon in calculating the percentage of households where Verizon is capable of providing cable television service. The affidavit states that Verizon first identified the number of residential addresses passed by Verizon's network and served by Verizon's cable television facilities, which were validated as capable of receiving Verizon's services (FiOS). Because the Act, as amended, requires the franchise operator to identify the percentage of households rather than addresses, Verizon performed additional calculations to convert the data on validated addresses to reflect household data by utilizing information from the 2000 U.S. Census and mid-2009 estimates from that data provided by a company called ESRI, Inc. Verizon projected the number of occupied households as of April 30, 2010 by comparing the number of households in 2000 to those in mid-2009 as estimated by ESRI, and adjusting that trend forward to the 2010 date. Verizon also multiplied its FiOS validated residential address counts in the filing by the ESRI estimated occupancy rates for mid-2009 to estimate the households in each town that were capable of being provided FiOS service. Verizon then divided these projected household numbers by the total number of estimated households in each municipality as of April 30, 2010

as calculated in the first step. Verizon provided a list of the final calculations, which demonstrated the percentage of occupied households where Verizon is capable of providing cable television service, ranging from a minimum of 65 percent in Old Tappan Borough to a maximum of 68 percent availability in Cliffside Park Borough.⁴

Staff has reviewed the petition and supporting documentation. As part of its analysis, Staff performed its own calculations to project the ESRI supplied mid-2009 data forward to April 30, 2010 and estimate the number of households within each municipality for the purpose of converting Verizon's FiOS validated residential address data to households capable of receiving FiOS service. In its review, Staff also reviewed several aspects of Verizon's service capabilities. This review included an analysis of whether Verizon's central offices/wire centers serving the subject municipalities had been converted to Video Serving Offices (VSOs) which are FiOS capable, as well as an analysis of Verizon's capability of serving residential households of all types, including one to four family structures located in underground utility service areas within a particular municipality and multiple-dwelling unit (MDU) structures located in both aerial and underground utility service areas within a particular municipality.

Furthermore, Staff reviewed additional data from Verizon demonstrating that the MDUs in the affected municipalities were not just passed by Verizon's cable television service, but capable of being provided cable television service if a resident requested it. Staff's review of MDU service capability also focused on important issues highlighted in Executive Order No. 25 (2006), which supplemented anti-redlining elements of the Act, as amended. Verizon also provided data indicating that no MDUs or any units within a particular MDU were included unless they could be provided service at the time they were included in the certification. Verizon represented that only households within MDUs that were able to be served upon request of a resident were counted towards the 60 percent certification. Verizon also provided a current status of additional MDUs which are not currently capable of being provided FiOS service, but where access agreements have been successfully negotiated. In each case, additional survey, engineering, or design work is underway, but not yet complete.

Based on Staff's recommendation and the Board's review of the information provided in support of the petition, the Board accepts Verizon's certification that it is capable of providing service to at least 60 percent of the households in municipalities currently served by a cable television company that operates under a municipal consent in the five municipalities and HEREBY APPROVES Verizon's certification. Attached as Appendix "I" is a list of the five municipalities where Verizon is capable of providing cable service to more than 60 percent of the households in the municipality that is currently provided with cable service by another cable company, and the percentage of FiOS availability to those households.

Each cable television operator currently operating in the five municipalities listed in Appendix "I" approved under Verizon's certification is HEREBY REQUIRED to pay to each municipality each year a sum equal to 3.5 percent of gross revenues, as such term is defined by N.J.S.A. 48:5A-3(x), derived from cable television service charges or fees paid by subscribers in the

⁴See Appendix "I" attached.

municipality to the cable television franchisee, and an additional amount not to exceed one-half of one percent of those gross revenues to the State Treasurer for a "CATV Universal Access Fund" to offset basic cable television service rates for low income (P.A.A.D. eligible) seniors and disabled persons.

Cable television operators may begin implementation of the increased franchise fee collection from their subscribers up to, but no later than, 90 days following the date of this Board Order approving the certification, pursuant to N.J.A.C. 14:18-15.7(d).

Cable television operators shall notify each municipality, the Division of Rate Counsel and the Office of Cable Television in writing of the effective date of the increased franchise fee.


DATED: 8/4/10

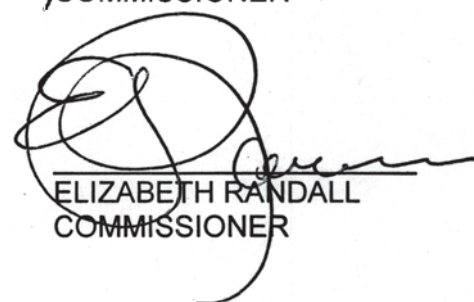
BOARD OF PUBLIC UTILITIES
BY:


LEE A. SOLOMON
PRESIDENT


JEANNE M. FOX
COMMISSIONER


NICHOLAS ASSELTA
COMMISSIONER

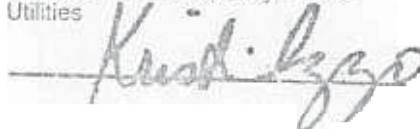

JOSEPH L. FIORDALISO
COMMISSIONER


ELIZABETH RANDALL
COMMISSIONER

ATTEST:


KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public
Utilities



APPENDIX "I"

Municipality	County	Percentage
Cliffside Park Borough	Bergen	68%
Guttenberg Town	Hudson	66%
Old Tappan Borough	Bergen	65%
Sea Bright Borough	Monmouth	66%
South Plainfield Borough	Middlesex	67%

SERVICE LIST

**I/M/O VERIZON NEW JERSEY, INC. CERTIFICATION OF CAPABILITY
TO PROVIDE CABLE TELEVISION SERVICE TO 60 PERCENT OF HOUSEHOLDS
IN FIVE DESIGNATED MUNICIPALITIES
BPU DOCKET NO. CO10060375**

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STATE OF NEW JERSEY
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CABLE TELEVISION

IN THE MATTER OF VERIZON NEW JERSEY, INC.)
CERTIFICATION OF CAPABILITY TO PROVIDE)
CABLE TELEVISION SERVICE TO 60 PERCENT OF)
HOUSEHOLDS IN 13 DESIGNATED MUNICIPALITIES)

ORDER

BPU DOCKET NO. CO09110900

Richard Chapkis, Esq., Vice President and General Counsel, for Verizon New Jersey, Inc.

Dennis C. Linken, Esq., Stryker, Tams and Dill, for Comcast

Sidney A. Sayovitz, Esq., Schenck, Price, Smith & King, for Cablevision

BY THE BOARD

On November 2, 2009, Verizon New Jersey, Inc. (Verizon) filed a petition with the Board of Public Utilities (Board), pursuant to N.J.S.A. 48:5A-30(d) and N.J.A.C. 14:18-15.7, seeking approval of its certification that it is capable of providing cable television service to at least 60 percent of the households in 13 municipalities.¹

Verizon was granted a systemwide franchise by the Board on December 18, 2006, to provide cable television service to 316 municipalities² pursuant to the newly enacted amendments to the State Cable Television Act, N.J.S.A. 48:5A-1 et seq. (the "Act").³ Through subsequent filings as provided in N.J.A.C. 14:18-14.14(a), Verizon is currently authorized to provide service to 369 municipalities. The Act, as amended, allows for the granting of competitive systemwide franchises for providers of cable television service by the Board. Prior to the passage of the

¹The 13 municipalities included in Verizon's application are: Allenhurst Borough, Bridgeton City, Cherry Hill Township, Evesham Township, Keansburg Borough, Keyport Borough, Matawan Borough, New Milford Borough, North Plainfield Borough, Plainfield City, South Orange Village Township, Victory Gardens Borough and Warren Township.

²Order, In the Matter of the Application of Verizon New Jersey, Inc. for a Systemwide Cable Television Franchise, Docket No. CE06110768 (December 18, 2006).

³L.2006, c.83, signed into law August 4, 2006.

amendments to the Act, cable television providers negotiated with each municipality separately for the grant of municipal consent, and then petitioned the Board for a certificate of approval to provide service within that municipality. Since the passage of the amendments to the Act, cable television companies now have a choice of continuing under the municipal consent based franchise system or proceeding under the systemwide franchise option.

Each cable television company operating in the State of New Jersey must pay franchise fees to each municipality in which it provides service. Currently, an incumbent cable operator operating under a municipal consent based franchise pays franchise fees each year in the amount of two percent of the gross revenues from all recurring charges in the nature of subscription fees paid by subscribers within the municipality for its cable television reception service, as such term is defined by N.J.S.A. 48:5A-3(e). The Act, as amended, requires that the holder of a systemwide cable television franchise pay to each municipality served each year a sum equal to 3.5 percent of gross revenues derived from cable television service charges or fees paid by subscribers in the municipality to the systemwide cable television franchisee. N.J.S.A. 48:5A-30(d). In addition, an amount not to exceed one-half of one percent of those gross revenues must be remitted to the State Treasurer for a "CATV Universal Access Fund" to offset basic cable television service rates for seniors and disabled persons. N.J.S.A. 48:5A-30(d). N.J.S.A. 48:5A-30(d) further provides that once a systemwide cable television franchise holder certifies that it is capable of providing service to at least 60 percent of the households within a municipality that is served by an incumbent cable television provider, and the Board approves that certification, the existing cable television company must also pay the increased franchise fee.

In conjunction with this statutory requirement, and in support of its petition, Verizon filed an Affidavit of John Gallup, Director, Video Network Services, explaining the methodology used by Verizon in calculating the percentage of households where Verizon is capable of providing cable television service. The affidavit states that Verizon first identified the number of residential addresses passed by Verizon's network and served by Verizon's cable television facilities, which were validated as capable of receiving Verizon's services (FiOS). Because the Act, as amended, requires the franchise operator to identify the percentage of households rather than addresses, Verizon performed additional calculations to convert the data on validated addresses to reflect household data by utilizing information from the 2000 U.S. Census and mid-2008 estimates from that data provided by a company called ESRI, Inc. Verizon projected the number of occupied households as of September 30, 2009 by comparing the number of households in 2000 to those in mid-2008 as estimated by ESRI, and adjusting that trend forward to the 2009 date. Verizon also multiplied its FiOS validated residential address counts in the filing by the ESRI estimated occupancy rates for mid-2008 to estimate the households in each town that were capable of being provided FiOS service. Verizon then divided these projected household numbers by the total number of estimated households in each municipality as of September 30, 2009 as calculated in the first step. Verizon provided a list of the final calculations, which demonstrated the percentage of occupied households where Verizon is capable of providing cable television service, ranging from a minimum of 65 percent in Evesham Township, Keyport Borough, North Plainfield Borough, Plainfield City and Victory Gardens Borough to a maximum of 72 percent availability in Warren Township.⁴

⁴See Appendix "I" attached.

Staff has reviewed the petition and supporting documentation. As part of its analysis, Staff performed its own calculations to project the ESRI supplied mid-2008 data forward to September 30, 2009 and estimate the number of households within each municipality for the purpose of converting Verizon's FiOS validated residential address data to households capable of receiving FiOS service. In its review, Staff also reviewed several aspects of Verizon's service capabilities. This review included an analysis of whether Verizon's central offices/wire centers serving the subject municipalities had been converted to Video Serving Offices (VSOs) which are FiOS capable, as well as an analysis of Verizon's capability of serving residential households of all types, including one to four family structures located in underground utility service areas within a particular municipality and multiple-dwelling unit (MDU) structures located in both aerial and underground utility service areas within a particular municipality.

Furthermore, Staff reviewed additional data from Verizon demonstrating that the MDUs in the affected municipalities were not just passed by Verizon's cable television service, but capable of being provided cable television service if a resident requested it. Staff's review of MDU service capability also focused on important issues highlighted in the Governor's Executive Order No. 25 (2006), which supplemented anti-redlining elements of the Act, as amended. Verizon also provided data indicating that no MDUs or any units within a particular MDU were included unless they could be provided service at the time they were included in the certification. Verizon represented that only households within MDUs that were able to be served upon request of a resident were counted towards the 60 percent certification. Verizon also provided a current status of additional MDUs which are not currently capable of being provided FiOS service, but where access agreements have been successfully negotiated. In each case, additional survey, engineering, or design work is underway, but not yet complete.

Based on Staff's recommendation and the Board's review of the information provided in support of the petition, the Board accepts Verizon's certification that it is capable of providing service to at least 60 percent of the households in municipalities currently served by a cable television company that operates under a municipal consent in the 13 municipalities and HEREBY APPROVES Verizon's certification. Attached as Appendix "I" is a list of the 13 municipalities where Verizon is capable of providing cable service to more than 60 percent of the households in the municipality that is currently provided with cable service by another cable company, and the percentage of FiOS availability to those households.

Each cable television operator currently operating in the 13 municipalities listed in Appendix "I" approved under Verizon's certification is HEREBY REQUIRED to pay to each municipality each year a sum equal to 3.5 percent of gross revenues, as such term is defined by N.J.S.A. 48:5A-3(x), derived from cable television service charges or fees paid by subscribers in the municipality to the cable television franchisee, and an additional amount not to exceed one-half of one percent of those gross revenues to the State Treasurer for a "CATV Universal Access Fund" to offset basic cable television service rates for low income (P.A.A.D. eligible) seniors and disabled persons.

Cable television operators may begin implementation of the increased franchise fee collection from their subscribers up to, but no later than, 90 days following the date of this Board Order approving the certification, pursuant to N.J.A.C. 14:18-15.7(d).

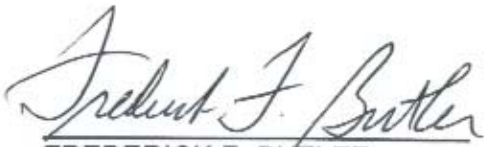
Cable television operators shall notify each municipality, Rate Counsel and the Office of Cable Television in writing of the effective date of the increased franchise fee.

DATED: 12/17/09

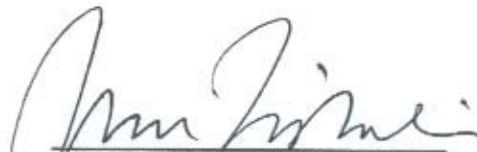
BOARD OF PUBLIC UTILITIES
BY:



JEANNE M. FOX
PRESIDENT



FREDERICK F. BUTLER
COMMISSIONER



JOSEPH L. FIORDALISO
COMMISSIONER



NICHOLAS ASSELTA
COMMISSIONER



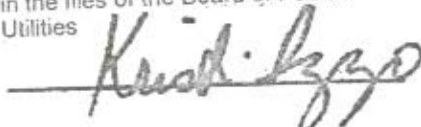
ELIZABETH RANDALL
COMMISSIONER

ATTEST:



KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public
Utilities



APPENDIX "I"

Municipality	County	Percentage
Allenhurst Borough	Monmouth	69%
Bridgeton City	Cumberland	67%
Cherry Hill Township	Camden	68%
Evesham Township	Burlington	65%
Keansburg Borough	Monmouth	69%
Keyport Borough	Monmouth	65%
Matawan Borough	Monmouth	66%
New Milford Borough	Bergen	66%
North Plainfield Borough	Somerset	65%
Plainfield City	Union	65%
South Orange Village Township	Essex	66%
Victory Gardens Borough	Morris	65%
Warren Township	Somerset	72%

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Agenda Date: 12/19/07
Agenda Item: 3A & LSA

**State of New Jersey
Board of Public Utilities**

Two Gateway Center
Newark, NJ 07102
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CABLE TELEVISION

IN THE MATTER OF VERIZON NEW JERSEY, INC.)
CERTIFICATION OF CAPABILITY TO PROVIDE)
CABLE TELEVISION SERVICE TO 60 PERCENT OF)
HOUSEHOLDS IN 25 DESIGNATED MUNICIPALITIES)

ORDER

BPU DOCKET NO. CO07110884

(SERVICE LIST ATTACHED)

BY THE BOARD:

On November 19, 2007, Verizon New Jersey, Inc. ("Verizon") filed a petition with the Board of Public Utilities ("Board") pursuant to N.J.S.A. 48:5A-30d and N.J.A.C. 14:18-15.7 seeking approval of its certification that it is capable of providing cable television service to at least 60 percent of the households in 25 municipalities.¹ Verizon was granted a systemwide franchise by the Board on December 18, 2006, to provide cable television service to 316 municipalities² pursuant to the newly enacted amendments to the State Cable Television Act, N.J.S.A. 48:5A-1 et seq. (the "Act").³ The Act, as amended, allows the Board to grant competitive systemwide franchises to certain providers of cable television service. Prior to the passage of the amendments to the Act, cable television providers negotiated with each municipality separately for the grant of municipal consent, and then petitioned the Board for a certificate of approval to provide service within that municipality. Since the passage of the amendments to the Act, cable television companies now have a choice of continuing under the municipal consent based franchise system or proceeding under the systemwide franchise option.

¹ The 25 municipalities included in Verizon's application are Borough of Barrington, Borough of Carlstadt, City of Clifton, Township of Denville, Borough of Elmwood Park, Borough of Hasbrouck Heights, Borough of Lawnside, Borough of Lodi, Township of Lyndhurst, Borough of Maywood, Township of Medford, Township of Millburn, Borough of Moonachie, Borough of New Providence, Borough of Norwood, Township of Nutley, City of Passaic, Village of Ridgefield Park, Borough of Rockleigh, Borough of Somerville, Borough of Spring Lake, Borough of Wallington, Township of Waterford, Borough of Woodcliff Lake and Borough of Wood-Ridge.

² Order, In the Matter of the Application of Verizon New Jersey, Inc. for a Systemwide Cable Television Franchise, Docket No. CE06110768 (December 18, 2006).

³ L. 2006, c. 83, signed into law August 4, 2006.

Each cable television company operating in the State of New Jersey must pay franchise fees to each municipality in which it provides service. Currently, an incumbent cable operator operating under a municipal consent based franchise pays franchise fees each year in the amount of two percent of the gross revenues from all recurring charges in the nature of subscription fees paid by subscribers for its cable television reception service, as such term is defined by N.J.S.A. 48:5A-3e, within the municipality. The Act, as amended, requires at N.J.S.A. 48:5A-30d that the holder of a systemwide cable television franchise pay to each municipality each year a sum equal to 3.5 percent of gross revenues, as such term is defined by N.J.S.A. 48:5A-3x, derived from cable television service charges or fees paid by subscribers in the municipality to the systemwide cable television franchisee, and an additional amount not to exceed one-half of one percent of those gross revenues to the State Treasurer for a "CATV Universal Access Fund" to offset basic cable television service rates for seniors and disabled persons who are eligible for the Pharmaceutical Assistance for the Aged and Disabled ("P.A.A.D.") program. N.J.S.A. 48:5A-30d further provides that once a systemwide cable television franchise holder certifies that it is capable of providing service to at least 60 percent of the households within a municipality that are served by an incumbent cable television provider, and the Board approves that certification, the existing cable television company must also pay the increased franchise fee.

In support of its petition, Verizon filed an Affidavit of Jeffrey B. Olson, Director, Video Network Services, explaining the methodology used by Verizon in calculating the percentage of households where Verizon is capable of providing cable television service. The affidavit states that Verizon first identified the number of residential addresses passed by Verizon's network and served by Verizon's cable facilities, which were validated as capable of receiving Verizon's services ("FiOS"). Since the Act, as amended, requires the franchise operator to identify the percentage of households rather than addresses, Verizon performed additional calculations to convert the data on validated addresses to reflect household data by utilizing information from the 2000 US Census and mid-2006 estimates from that data provided by a company called ESRI, Inc. Verizon projected the number of occupied households as of October 31, 2007 by comparing the number of households in 2000 to those in mid-2006 as estimated by ESRI, and adjusting that trend forward to the 2007 date. Verizon also multiplied its FiOS validated residential address counts in the filing by the ESRI estimated occupancy rates for 2006 to estimate the households in each town that were capable of being provided FiOS service. Verizon then divided these projected household numbers by the total number of estimated households in each municipality as of October 31, 2007 as calculated in the first step. Verizon provided a list of the final calculations, which demonstrated the percentage of occupied households where Verizon is capable of providing cable television service, ranging from a minimum of 62 percent to a maximum of 70 percent availability.⁴

Staff reviewed the petition and supporting documentation. As part of its analysis, Staff performed its own calculations to project the ESRI supplied mid-2006 data forward to October 31, 2007 and estimate the number of households within each municipality for the purpose of converting Verizon's FiOS validated residential address data to households capable of receiving FiOS service. In its review, Staff also reviewed Verizon's capabilities of serving multi-dwelling unit ("MDU") households within a particular municipality, and requested additional data from Verizon that the MDUs in the affected municipalities were not just passed by Verizon's cable television service, but capable of being provided cable television service if a resident requested it. Staff's review of MDU service capability also focused on important issues highlighted in the Governor's Executive Order No. 25 (2006), which supplemented anti-redlining elements of the

⁴ See Appendix "I" attached.

Act, as amended. Verizon clarified in its discovery responses that no MDUs or any units within a particular MDU were included unless they could be provided service at the time they were included in the certification. Verizon provided information that only households within MDUs that were able to be served upon request of a resident were counted towards the 60 percent certification.

By letter dated December 14, 2007, CSC TKR, Inc. ("Cablevision") filed a motion to intervene and/or reject the certifications as they relate to Verizon's operations in the City of Passaic and the Borough of Norwood. Based on its own internal records concerning households and requests for underground facility mark-outs as required by the Underground Facility Protection Act, N.J.S.A. 48:2-73 et seq., Cablevision believes that Verizon is not capable of serving at least 60 percent of the households in the City of Passaic and the Borough of Norwood. In particular, Cablevision questions Verizon's ability to provide its FiOS service to those households served by underground facilities and those in the majority of the MDUs in the City of Passaic and the two MDUs in the Borough of Norwood. Accordingly, Cablevision seeks leave to intervene in the proceeding and requests that the Board provisionally reject Verizon's certifications for these two municipalities subject to further review and demonstration by Verizon that it is currently capable of serving 60 percent of the households in the subject towns. By letter dated December 18, 2007, the Department of the Public Advocate, Division of Rate Counsel recommended approval of Cablevision's motion and deferral of Verizon's certification with respect to the two towns pending resolution of the issues raised by Cablevision in its motion.

After reviewing Cablevision's papers and the information provided in support of the motion, the Board HEREBY FINDS that there are sufficient grounds: 1) to grant Cablevision's intervention in this matter, pursuant to N.J.A.C. 1:1-16.3a, as it will be specifically and directly affected by the outcome of the matter, due to the resulting increase in franchise fees; and 2) to request additional information from Verizon concerning its capability of serving at least 60 percent of the households in the City of Passaic and the Borough of Norwood. Therefore, the Board HEREBY GRANTS Cablevision's motion for intervention in this matter, and DEFERS consideration of Verizon's certifications for the City of Passaic and the Borough of Norwood at this time, pending further investigation. Verizon has agreed to waive the 45 day period for approval or disapproval as contained in N.J.S.A. 48:5A-30g with regard to the certification of these two towns.

Based on Staff's recommendation, and the Board's review of the information provided in support of the petition, the Board FINDS that Verizon is capable of providing service to at least 60 percent of the households currently served by a cable television company that operates under a municipal consent in each of the 23 remaining municipalities that are the subject of Verizon's petition, and hereby APPROVES Verizon's certification as it relates to them. Attached as Appendix "I" is a list of the 23 municipalities where Verizon is capable of providing cable service to more than 60 percent of the households currently provided with cable service by another cable company, and the percentages of those households.

As previously stated, N.J.S.A. 48:5A-30d requires that once the Board approves the 60 percent certification of a systemwide franchisee, each cable operator currently providing service in the affected municipalities must also pay increased franchise fees. To effectuate the legislative objectives while at the same time recognizing the needs of both cable companies and their subscribers as mandated by N.J.S.A. 48:5A-2, the Board HEREBY DETERMINES that the effective date of this increase shall be the date on which the cable companies first bill their subscribers for this increased fee.

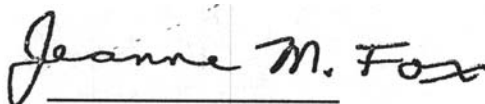
Therefore, beginning no later than 90 days from the date of this Board Order approving Verizon's certification, pursuant to N.J.S.A. 48:5A-30d, each cable operator currently operating in the 23 municipalities listed in Appendix "I" approved under Verizon's certification is HEREBY REQUIRED, to pay to each municipality each year a sum equal to 3.5 percent of gross revenues, as such term is defined by N.J.S.A. 48:5A-3x, derived from cable television service charges or fees paid by subscribers in the municipality to the cable television franchisee, and an additional amount not to exceed one-half of one percent of those gross revenues to the State Treasurer for a "CATV Universal Access Fund" to offset basic cable television service rates for low income (P.A.A.D. eligible) seniors and disabled persons.

Cable operators may begin implementation of the increased franchise fee collection from their subscribers up to, but no later than, 90 days following the date of this Board Order approving the certification.

Cable operators shall notify each municipality, Rate Counsel and the Office of Cable Television in writing of the effective date of the increased franchise fee.

DATED: 12/21/07

BOARD OF PUBLIC UTILITIES
BY:



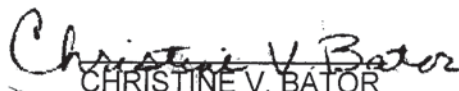
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PRESIDENT



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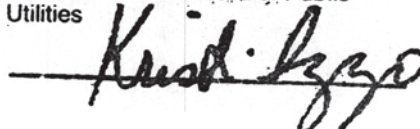
CHRISTINE V. BATOR
COMMISSIONER

ATTEST:



KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public
Utilities



APPENDIX "I"

Municipality	County	Percentage
Barrington Borough	Camden	62%
Carlstadt Borough	Bergen	64%
Clifton City	Passaic	64%
Denville Township	Morris	63%
Elmwood Park Township	Bergen	63%
Hasbrouck Heights Borough	Bergen	65%
Lawnside Borough	Camden	65%
Lodi Borough	Bergen	64%
Lyndhurst Township	Bergen	62%
Maywood Borough	Bergen	63%
Medford Township	Burlington	63%
Millburn Township	Essex	65%
Moonachie Borough	Bergen	70%
New Providence Borough	Union	65%
Nutley Township	Essex	66%
Ridgefield Park Village	Bergen	62%
Rockleigh Borough	Bergen	63%
Somerville Borough	Somerset	65%
Spring Lake Borough	Monmouth	64%
Wallington Borough	Bergen	68%
Waterford Township	Camden	67%
Woodcliff Lake Borough	Bergen	62%
Wood-Ridge Borough	Bergen	65%

IN THE MATTER OF VERIZON NEW JERSEY, INC. CERTIFICATION OF CAPABILITY TO
PROVIDE CABLE TELEVISION SERVICE TO 60 PERCENT OF HOUSEHOLDS IN 25
DESIGNATED MUNICIPALITIES - DOCKET NO. CO07110884

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Agenda Date: 9/12/08
Agenda Item: 3 c

State of New Jersey
Board of Public Utilities
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CABLE TELEVISION

IN THE MATTER OF VERIZON NEW JERSEY, INC.)	
CERTIFICATION OF CAPABILITY TO PROVIDE)	FURTHER ORDER
CABLE TELEVISION SERVICE TO 60 PERCENT OF)	
HOUSEHOLDS IN 25 DESIGNATED MUNICIPALITIES)	BPU DOCKET NO. CO07110884

(SERVICE LIST ATTACHED)

BY THE BOARD:

On November 19, 2007, Verizon New Jersey, Inc. ("Verizon" or "VNJ") filed a petition with the Board of Public Utilities ("Board"), pursuant to N.J.S.A. 48:5A-30d and N.J.A.C. 14:18-15.7, seeking approval of its certification that it is capable of providing cable television service to at least 60 percent of the households in 25 municipalities.¹ On December 19, 2007, the Board approved Verizon's certification for 23 of the 25 municipalities; the Borough of Norwood and the City of Passaic were deferred. By letter dated December 19, 2007, Verizon agreed to waive the statutory timeframe for consideration of its 60 percent certification for the Borough of Norwood and the City of Passaic.

The Board's actions were predicated on a motion to intervene by CSC TKR, Inc. ("Cablevision") filed on December 14, 2007 in this matter with regard to the Borough of Norwood and the City of Passaic. Cablevision claimed that Verizon was not capable of serving 60 percent of the municipalities in question due to the large number of underground facilities in them, and as further discussed below. The Board granted Cablevision intervention in this matter on December 19, 2007.

¹ The 25 municipalities included in Verizon's application are Borough of Barrington, Borough of Carlstadt, City of Clifton, Township of Denville, Borough of Elmwood Park, Borough of Hasbrouck Heights, Borough of Lawnside, Borough of Lodi, Township of Lyndhurst, Borough of Maywood, Township of Medford, Township of Millburn, Borough of Moonachie, Borough of New Providence, Borough of Norwood, Township of Nutley, City of Passaic, Village of Ridgefield Park, Borough of Rockleigh, Borough of Somerville, Borough of Spring Lake, Borough of Wallington, Township of Waterford, Borough of Woodcliff Lake and Borough of Wood-Ridge.

By way of background, Verizon was granted a systemwide franchise by the Board on December 18, 2006, to provide cable television service to 316 municipalities² pursuant to the newly enacted amendments to the State Cable Television Act, N.J.S.A. 48:5A-1 et seq. (the "Act"). The Act, as amended, provides for competitive system-wide cable television franchises to certain providers of cable television service. Prior to the passage of the amendments to the Act, cable television providers negotiated with each municipality separately for the grant of municipal consent, and then petitioned the Board for a certificate of approval to provide service within that municipality. Since the passage of the amendments to the Act, cable television companies now have a choice of continuing under the municipal consent based franchise system or proceeding under the systemwide franchise option, which does not require negotiation with the individual municipality, but instead includes the franchise requirements directly in the statute.

Each cable television company operating in the State of New Jersey must pay franchise fees to each municipality in which it provides service. Currently, an incumbent cable operator operating under a municipal consent based franchise pays franchise fees each year in the amount of two percent (2%) of the gross revenues from all recurring charges in the nature of subscription fees paid by subscribers for its cable television reception service, as such term is defined by N.J.S.A. 48:5A-3(e), within the municipality. The Act, as amended, requires at N.J.S.A. 48:5A-30(d) that the holder of a systemwide cable television franchise pay to each municipality each year a sum equal to three and one half percent (3.5%) of gross revenues, as such term is defined by N.J.S.A. 48:5A-3(x), derived from cable television service charges or fees paid by subscribers in the municipality to the systemwide cable television franchisee, and an additional amount not to exceed one-half of one percent (0.5%) of those gross revenues to the State Treasurer for a "CATV Universal Access Fund" to offset basic cable television service rates for seniors and disabled persons who are eligible for the Pharmaceutical Assistance for the Aged and Disabled ("PAAD") program. N.J.S.A. 48:5A-30(d) further provides that once a systemwide cable television franchise holder certifies that it is capable of providing service to at least 60 percent of the households within a municipality that are served by an incumbent cable television provider, and the Board approves that certification, the existing cable television company must also pay the increased franchise fee.

In support of its petition, Verizon filed an Affidavit of Jeffrey B. Olson, Director, Video Network Services, explaining the methodology used by Verizon in calculating the percentage of households where Verizon is capable of providing cable television service. The affidavit states that Verizon first identified the number of residential addresses passed by Verizon's network and served by Verizon's cable facilities, which were validated as capable of receiving Verizon's services ("FiOS"). Because the Act requires the franchise operator to identify the percentage of households rather than addresses, Verizon performed additional calculations to convert the data on validated addresses to reflect household data by utilizing information from the 2000 US Census and mid-2006 estimates from that data provided by a company called ESRI, Inc. Verizon projected the number of occupied households as of October 31, 2007 by comparing the number of households in 2000 to those in mid-2006 as estimated by ESRI, and adjusting that trend forward to the 2007 date. Verizon also multiplied its FiOS validated residential address counts in the filing by the ESRI estimated occupancy rates for 2006 to estimate the households in each town that were capable of being provided FiOS service. Verizon then divided these projected household numbers by the total number of estimated households in each municipality as of October 31, 2007 as calculated in the first step. Verizon provided a list of the final calculations, which demonstrated the percentage of occupied households where Verizon is

² Order, In the Matter of the Application of Verizon New Jersey, Inc. for a Systemwide Cable Television Franchise, Docket No. CE06110768 (December 18, 2006).

capable of providing cable television service, ranging from a minimum of 62 percent to a maximum of 70 percent availability.

Staff reviewed the petition and supporting documentation. As part of its analysis, Staff performed its own calculations to project the ESRI supplied mid-2006 data forward to October 31, 2007 and estimate the number of households within each municipality for the purpose of converting Verizon's FiOS validated residential address data to households capable of receiving FiOS service. In its review, Staff also reviewed Verizon's capabilities of serving multi-dwelling unit ("MDU") households within a particular municipality, and requested additional data from Verizon that the MDUs in the affected municipalities were not just passed by Verizon's cable television service, but capable of being provided cable television service if a resident requested it. Staff's review of MDU service capability also focused on important issues highlighted in the Governor's Executive Order No. 25 (2006), which supplemented anti-redlining elements of the Act. Verizon clarified in its discovery responses that no MDUs or any units within a particular MDU were included unless they could be provided service at the time they were included in the certification. Verizon provided information that only households within MDUs that were able to be served upon request of a resident were counted towards the 60 percent certification.

By letter dated December 14, 2007, Cablevision filed a motion to intervene and/or reject the certifications as they relate to Verizon's operations in the City of Passaic and the Borough of Norwood. Cablevision maintained, based on its own internal records concerning households and requests for underground facility mark-outs as required by the Underground Facility Protection Act, N.J.S.A. 48:2-73 et seq., that Verizon was not capable of serving at least 60 percent of the households in the City of Passaic and the Borough of Norwood, where it had represented that it could serve 64 and 63 percent of households, respectively. In particular, Cablevision questioned Verizon's ability to provide its FiOS service to those households served by underground facilities and those in the majority of the MDUs in the City of Passaic and the two MDUs in the Borough of Norwood. Accordingly, Cablevision sought leave to intervene in the proceeding and requested that the Board provisionally reject Verizon's certifications for these two municipalities subject to further review and demonstration by Verizon that it is currently capable of serving 60 percent of the households in the subject towns. By letter dated December 18, 2007, the Department of the Public Advocate, Division of Rate Counsel recommended approval of Cablevision's motion and deferral of Verizon's certification with respect to the two towns pending resolution of the issues raised by Cablevision in its motion.

By order dated December 19, 2007, the Board granted Cablevision's motion to intervene finding that due to the potential increase in franchise fees triggered by a certification, Cablevision would be specifically and directly affected by the outcome of the matter. Additionally, the Board found sufficient grounds to defer certification of Passaic and Norwood pending further investigation. As noted above, Verizon agreed to waive the 45 day period for a decision on the certification for Norwood and Passaic.

Board staff initiated its investigation by sending additional questions to both Cablevision and Verizon on various technical aspects of the petition, in an attempt to determine the basis for the discrepancies in the calculations of the two cable providers. Meetings were held separately with each company on January 11, 2008 and January 25, 2008.

By letter dated January 14, 2008, Cablevision responded to the technical questions sent by OCTV on January 3, 2008. Cablevision also requested access to Verizon's unredacted filing, subject to the execution of a confidentiality agreement, contending that it was being deprived of

“the opportunity to meaningfully participate.” Cablevision also requested that the Board establish a “procedural schedule for the proceeding.”

By letter dated January 29, 2008, Verizon opposed Cablevision’s motion asserting that it must be denied because the certification proceeding is not a contested case requiring evidentiary hearings, and Cablevision was simply attempting to circumvent the Board’s “well-established practice of protecting proprietary commercial information.”

Cablevision maintains that unless it is provided with all of the information Verizon has filed in connection with the proposed certification of Passaic and Norwood, and is then afforded an opportunity for evidentiary hearings, the Board will have deprived Cablevision of its due process rights. Based on a review of the motion and all of the supporting and opposing papers, the petition and accompanying documentation, and the cited law, Cablevision’s arguments fail.

Cablevision was granted intervention to allow it to present evidence to rebut Verizon’s certification that it was capable of providing service to 60% of the households in Passaic and Norwood. Cablevision was given numerous opportunities to present its case as to why certification at this point would be improper. Cablevision’s submission failed to support its position in the case of the Borough of Norwood, and access to the information that Verizon has claimed is highly sensitive would not cure that failure. As the incumbent provider, Cablevision is in a unique position to be able to identify households within the communities it serves as well as the capability of a landline competitor to compete with it in those communities. Despite this advantage, Cablevision submitted evidence which improperly included a combination of duplicate addresses, non-residential addresses and, also, in the case of the Borough of Norwood, addresses outside of the municipality.

Cablevision maintains that it was not given an opportunity to evaluate Verizon’s methodology for determining the number of households in either community. That is not correct. Verizon’s methodology has and continues to rely on household information from the 2000 US Census and updated estimates of that data provided by a company called ESRI, Inc. That data is readily available directly from ESRI, Inc. and can easily be obtained and evaluated by Cablevision. Cablevision maintains that it was denied the opportunity to challenge Verizon’s claim that it is capable of serving MDUs. Again, as the incumbent provider, Cablevision would easily be able to gauge the capability of a landline competitor to serve its customers. As part of its normal business activities Cablevision could easily monitor Verizon’s facility buildout in its service area and should, on that basis, be able to present evidence to the extent it exists to rebut a claim by Verizon that it is capable of serving area MDUs. Access to the information that Verizon has claimed is highly sensitive would therefore not be necessary for Cablevision to assert its claim.

Since the Act requires Verizon to make a showing that it is capable of providing service to at least 60 percent of the households within a municipality that are served by an incumbent cable television provider, the Board believes it is appropriate for Verizon to rely on the use of occupied households, since vacant households could not be considered to be served by an incumbent cable television provider.

In reviewing the data submitted by Verizon and Cablevision, it is clear that the major dispute with regard to the Borough of Norwood is the number of serviceable households within the municipality. Although Cablevision has advanced a position that Verizon is not capable of serving MDUs or households in the Borough of Norwood served by underground facilities, those arguments, even if assumed correct, do not reduce the number of serviceable households below 60 percent. Therefore, it is only necessary to address the issue of households here.

Verizon's filing reflects a housing unit total of 1,857 households according to the 2000 US Census. The filing also includes a projection of that number to October 31, 2007 based on the data provided by ESRI, Inc., that reflects a modest growth rate over the census figure. Verizon compares its validated service addresses against the resulting household calculation to arrive at a FiOS capable rate of 63 percent.

Cablevision maintains based on its business records that there are approximately 2,725 households in the Borough of Norwood. This number was recently disclosed by the Mayor of Norwood in a recent letter to the Board concerning this matter placing it in the public domain. Cablevision's household number represents some 900 additional households since the 2000 US Census or an average growth rate of 6.4 percent over seven and one-third years. Such a level of growth is inconsistent with the growth rates in most municipalities in the state over the same period and given the relative size of the Borough of Norwood is questionable. Therefore, the Board looked to other sources to verify the number of households within Norwood. One in particular was a letter from the Mayor of Norwood. According to the Mayor, the Borough, as of February 2008 had a total of 1,791 residential units. This number is substantially lower than the number put forth by Cablevision, and is also less than that forecast by Verizon. Although our conclusions herein are based on the more conservative and supportable household count provided by Verizon, Norwood's household count does not change the conclusion that in the Borough of Norwood Verizon satisfies the 60 percent service availability threshold for certification provided in the Act as amended.

Based on Staff's recommendation, and the Board's review of the information in the record, the Board FINDS that Verizon is capable of providing service to at least 60 percent of the households currently served by a cable television company that operates under a municipal consent in the Borough of Norwood, and HEREBY APPROVES Verizon's certification. The Board has determined that it may, as a matter of law, make this determination over the objections of Cablevision, and despite Cablevision's failure to review the full application, because the matter is not a contested case but is instead an extension of the Board's statutorily-mandated oversight authority. In this case, due process was satisfied by allowing Cablevision an opportunity to be heard and to present reasons why the proposed action should not be taken, and a full hearing and access to Verizon's application was neither necessary nor warranted as to this particular issue at this particular time. See, e.g., I/M/O the Request for Solid Waste Utility Customer List, 106 N.J. 508, 520-21 (1987).

At this time, the Board is not considering Verizon's 60 percent certification for the City of Passaic. The Board will continue that investigation and provide a final decision as appropriate.

As previously stated, N.J.S.A. 48:5A-30(d) requires that once the Board approves the 60 percent certification of a systemwide franchisee, each cable operator currently providing service in the affected municipalities must also pay increased franchise fees. To effectuate the legislative objectives while at the same time recognizing the needs of both cable companies and their subscribers, as mandated by N.J.S.A. 48:5A-2, the Board HEREBY DETERMINES that the effective date of this increase shall be the date on which the cable companies first bill their subscribers for this increased fee.

Therefore, beginning no later than 90 days from the date of this Board Order approving Verizon's certification, pursuant to N.J.S.A. 48:5A-30(d), each cable operator currently operating in the Borough of Norwood is HEREBY REQUIRED to pay to the municipality each year a sum equal to 3.5 percent of gross revenues, as such term is defined by N.J.S.A. 48:5A-3(x), derived

from cable television service charges or fees paid by subscribers in the municipality to the cable television franchisee, and an additional amount not to exceed one-half of one percent of those gross revenues to the State Treasurer for a "CATV Universal Access Fund" to offset basic cable television service rates for low income (PAAD eligible) seniors and disabled persons.

Cable operators may begin implementation of the increased franchise fee collection from their subscribers up to, but no later than, 90 days following the date of this Board Order approving the certification.

Cable operators shall notify each municipality, Rate Counsel and the Office of Cable Television in writing of the effective date of the increased franchise fee.

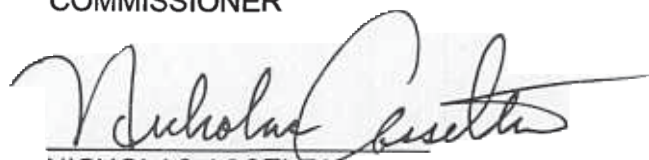
DATED: 9/15/08

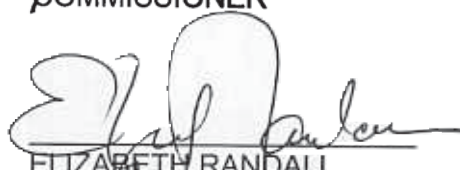
BOARD OF PUBLIC UTILITIES
BY:



JEANNE M. FOX
PRESIDENT


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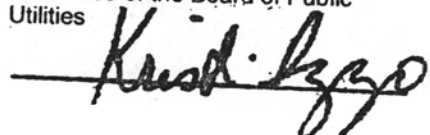

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COMMISSIONER


NICHOLAS ASSELTA
COMMISSIONER


ELIZABETH RANDALL
COMMISSIONER

ATTEST:

KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public
Utilities



IN THE MATTER OF VERIZON NEW JERSEY, INC. CERTIFICATION OF CAPABILITY TO
PROVIDE CABLE TELEVISION SERVICE TO 60 PERCENT OF HOUSEHOLDS IN 25
DESIGNATED MUNICIPALITIES - DOCKET NO. CO07110884

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10 of 10 DOCUMENTS

IN THE MATTER OF VERIZON NEW JERSEY, INC. CERTIFICATION OF CAPABILITY TO PROVIDE CABLE TELEVISION SERVICE TO 60 PERCENT OF HOUSEHOLDS IN DESIGNATED MUNICIPALITIES

BPU DOCKET NO. CO07050321

New Jersey Board of Public Utilities

2007 N.J. PUC LEXIS 71

June 28, 2007, Dated

PANEL: [*1] JEANNE M. FOX, PRESIDENT; FREDERICK F. BUTLER, COMMISSIONER; JOSEPH L. FIORDALISO, COMMISSIONER; CONNIE O. HUGHES, COMMISSIONER; CHRISTINE V. BATOR, COMMISSIONER

OPINION: CABLE TELEVISION

ORDER

BY THE BOARD

On May 16, 2007, Verizon New Jersey, Inc. (Verizon) filed a petition with the Board of Public Utilities (Board) pursuant to *N.J.S.A. 48:5A-30d* and *N.J.A.C. 14:18-15.7* seeking approval of its certification that it is capable of providing cable television service to at least 60 percent of the households in 25 municipalities. n1 Verizon was granted a systemwide franchise by the Board on December 18, 2006, to provide cable television service to 316 municipalities n2 pursuant to the newly enacted amendments to the State Cable Television Act, *N.J.S.A. 48:5A-1* et seq. (Act). n3 The Act, as amended, allows for the granting of competitive systemwide franchises for certain providers of cable television service by the Board. Prior to the passage of the amendments to the Act, cable television providers negotiated with each municipality separately for the [*2] grant of municipal consent, and then petitioned the Board for a certificate of approval to provide service within that municipality. Since the passage of the amendments to the Act, cable television companies now have a choice of continuing under the municipal consent based franchise system or proceeding under the systemwide franchise option.

n1 The 25 municipalities included in Verizon's application are: the Boroughs of Audubon Park, Bergenfield, Bound Brook, Closter, Demarest, Dumont, Fair Haven, Garwood, Glen Rock, Haddon Heights, Haddonfield, Harrington Park, Haworth, Ho-Ho-Kus, Manville, Northvale, Oradell, Raritan, Rockaway, Shrewsbury, South Bound Brook, Waldwick, the Town of Dover, the Township of Wyckoff and the Village of Ridgewood
n2 *Order*, In the Matter of the Application of Verizon New Jersey, Inc. for a Systemwide Cable Television Franchise, Docket No. CE06110768 (December 18, 2006).
n3 L. 2006, ch.83, signed into law August 4, 2006.

Each cable television company operating in the State [*3] of New Jersey must pay franchise fees to each municipality in which it provides service. Currently, an incumbent cable operator operating under a municipal consent based fran-

chise pays franchise fees each year in the amount of two percent of the gross revenues from all recurring charges in the nature of subscription fees paid by subscribers for its cable television reception service, as such term is defined by *N.J.S.A. 48:5A-3e*, within the municipality. The Act, as amended, at *N.J.S.A. 48:5A-30d* requires that the holder of a systemwide cable television franchise pay to each municipality each year a sum equal to 3.5 percent of gross revenues, as such term is defined by *N.J.S.A. 48:5A-3x*, derived from cable television service charges or fees paid by subscribers in the municipality to the systemwide cable television franchisee, and an additional amount not to exceed one-half of one percent of those gross revenues to the State Treasurer for a "CATV Universal Access Fund" to offset basic cable television service rates for seniors and disabled persons who are [*4] eligible for the Pharmaceutical Assistance for the Aged and Disabled ("P.A.A.D."). *N.J.S.A. 48:5A-30d* further provides that once a systemwide cable television franchise holder certifies that it is capable of providing service to at least 60 percent of the households within a municipality that are served by an incumbent cable television provider, and the Board approves that certification, the existing cable television company must also pay the increased franchise fee.

In support of its petition, Verizon filed an Affidavit of Anthony Calderan, Director, Video Network Services, explaining the methodology used by Verizon in calculating the percentage of households where Verizon is capable of providing cable television service. The affidavit states that Verizon first identified the number of residential addresses passed by Verizon's network and served by Verizon's cable facilities, which were validated as capable of receiving Verizon's services. Since the Act, as amended, requires the franchise operator to identify the percentage of households rather than addresses, Verizon performed additional calculations to convert the data on validated [*5] addresses to reflect household data by utilizing information from the 2000 census and 2005 estimates from 2000 census data provided by a company called ESRI, Inc. Verizon determined the percentage of occupied households by comparing the number of housing units to the actual number of households within each municipality, and then multiplied the percentage of households by the number of validated addresses to determine the number of households in each municipality where Verizon's cable service is available. The number of households capable of receiving Verizon's cable service was divided by the total number of households in the municipality. Verizon provided a list of the final calculations, which demonstrated the percentage of occupied households where Verizon is capable of providing cable television service, ranging from a minimum of 66 percent to a maximum of 88 percent availability. n4

n4 See Appendix "I" attached.

Staff reviewed the petition and supporting documentation. Staff also solicited additional data [*6] from Verizon through data requests and held meetings with Verizon and the New Jersey Department of Public Advocate, Division of Rate Counsel to review the petition. As part of its analysis, Staff calculated adjustments to Verizon's estimated occupied households to reflect 2007 data so that both the number of households within the municipality and those where Verizon is capable of providing service would reflect the same period. In its review, Staff also reviewed Verizon's capabilities of serving multi-dwelling unit (MDU) households within a particular municipality, and requested additional data from Verizon that the MDUs in the affected municipalities were not just passed by Verizon's cable television service, but capable of being provided cable television service if a resident requested it. Staffs review of MDU service capability also focused on important issues highlighted in the Governor's Executive Order No. 25 (2006), to supplement anti-redlining elements of the Act, as amended. Verizon clarified in its discovery responses that no MDUs or any units within a particular MDU were included unless they were capable of being provided service at the time they were included in the certification. [*7] Verizon provided information that only households within MDUs that were able to be served upon request of a resident were counted towards the 60 percent certification.

Based on Staffs recommendation, and the Board's review of the information provided in support of the petition, the Board FINDS that Verizon is capable of providing service to at least 60 percent of the households currently served by a cable television company that operates under a municipal consent in each of the 25 municipalities, and hereby AP-PROVES Verizon's certification. Attached as Appendix "I" is a list of the 25 municipalities where Verizon is capable of providing cable service to more than 60 percent of the households currently provided with cable service by another cable company, and the percentages of those households.

As previously stated, *N.J.S.A. 48:5A-30d*, requires that once the Board approves the 60 percent certification of a systemwide franchisee, each cable operator currently providing service in the affected municipalities must also pay increased franchise fees. To effectuate the legislative objectives while at the same time recognizing the [*8] needs of both cable companies and their subscribers as mandated by *N.J.S.A. 48:5A-2*, the Board HEREBY DETERMINES that the effective date of this increase shall be the date on which the cable companies first bill their subscribers for this increased fee.

THEREFORE, beginning no later than 90 days from the date of this Board Order approving Verizon's certification, pursuant to *N.J.S.A. 48:5A-30d*, each cable operator currently operating in the 25 towns listed in Appendix "I" approved under Verizon's certification is HEREBY REQUIRED, to pay to each municipality each year a sum equal to 3.5 percent of gross revenues, as such term is defined by *N.J.S.A. 48:5A-3x*, derived from cable television service charges or fees paid by subscribers in the municipality to the cable television franchisee, and an additional amount not to exceed one-half of one percent of those gross revenues to the State Treasurer for a "CATV Universal Access Fund" to offset basic cable television service rates for low income (P.A.A.D. eligible) seniors and disabled persons.

Cable [*9] operators may begin implementation of the increased franchise fee collection from their subscribers up to, but no later than, 90 days following the date of this Board Order approving the certification.

Cable operators shall notify each municipality, Rate Counsel and the Office of Cable Television in writing of the effective date of the increased franchise fee.

DATED: 6/28/07

BOARD OF PUBLIC UTILITIES

BY:

JEANNE M. FOX

PRESIDENT

FREDERICK F. BUTLER
COMMISSIONER

JOSEPH L. FIORDALISO
COMMISSIONER

CONNIE O. HUGHES

COMMISSIONER

CHRISTINE V. BATOR

COMMISSIONER

APPENDIX "I"

Municipality	County	Percentage of Households Capable of receiving service
Audubon Park Borough	Camden	78%
Bergenfield Borough	Bergen	70%
Bound Brook Borough	Somerset	72%
Closter Borough	Bergen	75%
Demarest Borough	Bergen	80%
Dover Town	Morris	75%
Dumont Borough	Bergen	71%
Fair Haven Borough	Monmouth	74%
Garwood Borough	Union	69%

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Municipality	County	Percentage of Households Capable of receiving service
Glen Rock Borough	Bergen	73%
Haddon Heights Borough	Camden	72%
Haddonfield Borough	Camden	70%
Harrington Park Borough	Bergen	70%
Haworth Borough	Bergen	77%
Ho-Ho-Kus Borough	Bergen	74%
Manville Borough	Somerset	80%
Northvale Borough	Bergen	76%
Oradell Borough	Bergen	67%
Raritan Borough	Somerset	66%
Ridgewood Village	Bergen	68%
Rockaway Borough	Morris	88%
Shrewsbury Borough	Monmouth	68%
South Bound Brook Borough	Somerset	67%
Waldwick Borough	Bergen	72%
Wyckoff Township	Bergen	66%
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